ORD #0318-03

FINAL STATEMENT OF REASONS

a) Updates to the Initial Statement of Reasons

Section 101419.2(b)(2) and (b)(2)(A)

Problem:

Section 101419.2 sets forth the content of an Infant Needs and Services Plan that the CCC must complete prior to enrolling an infant at the facility. CCCs are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendation standard 3.1.4.1, attached, child care facilities should have a written policy in place that addresses safe sleep practices used within the facility. The American Academy of Pediatrics supports this recommendation.

Specific Purpose:

This section is being adopted to enable parents and caregivers to understand the typical sleep habits of the infant being enrolled into care. Inclusion of a required Individual Infant Sleeping Plan within the Infant Needs and Services Plan provides an opportunity for the parent and the caregivers to discuss the individual needs of the infant regarding safe sleep. If the infant needs medical exemptions to established safe sleep practices, this form shall be utilized for this purpose.

Factual Basis:

As noted, CCCs should have a written policy in place that addresses safe sleep practices used in the facility. Adoption of this section will require CCCs to implement such practices by reference to individual infants enrolled into care. As a fundamental practice in caring for infants, caregivers should discuss an infant's baseline behavior to more rapidly detect anomalies during sleep. The completion of this form prior to care can potentially mitigate risk of infant sleep related deaths. According to an article published by the American Academy of Pediatrics titled "Sudden Infant Death Syndrome in Child Care Settings," 20% of all SIDS deaths occur in child care settings.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 101419.2(b)(2)(A) by replacing the reference to "child" to "infant" for accuracy and consistency.

Sections 101429(a)(1) and 101429(a)(2)(A)

Problem:

Section 101429(a)(2)(A) specifies how caregivers must provide care and supervision for infants. There are currently no provisions that set forth how caregivers must provide it for infants in a designated sleeping area. The general requirements set forth in Section 101429(a)(2)(A) create confusion for caregivers that utilize a transparent wall or a half wall so that they may supervise sleeping infants, as well as other infants who have awakened, thus, dividing their attention. A staff person should engage in constant audio and visual supervision of sleeping infants to recognize signs of distress or possible hazards that may result in an unsafe sleeping environment that puts an infant at greater risk of SIDS.

Specific Purpose:

This section is being adopted to ensure caregivers supervise sleeping infants through auditory and visual observation. A staff person must always be present in the designated sleeping area.

Factual Basis:

This section is necessary to be in conformity with national standards for infant safe sleep in child care settings to reduce the risk of SIDS. This requirement is supported by Caring for Our Children National Recommendations section 3.1.4.1 (k), attached.

This recommendation is also supported by the American Academy of Pediatrics. It is also the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 101429(a)(1) by removing the sentence "Under no circumstances shall ANY infant be left unattended." This was necessary to reduce redundancy in the regulations. In addition, the Department has amended Sections 101429(a)(2) and 101429(a)(2)(A), the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls or half walls allowing for constant visual supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

Section 101429(a)(2)(B) and (C)

Problem:

Sections 101429(a)(2)(B) and (C) specify how caregivers must provide care and supervision for infants. There are currently no provisions that set forth how caregivers must provide it for infants in a designated sleeping area. More specifically, caregivers are not required to monitor infants for specific signs of distress that may indicate that an infant is at risk for SIDS.

Specific Purpose:

This section is being added to require that staff monitor infants for specified signs of distress and follow proper medical and/or notification requirements as set forth in Section 101226. This section also requires caregivers to check on the position of the infant and to reposition them if they cannot roll from back to stomach and stomach to back unassisted.

Factual Basis:

This section is necessary to ensure that caregivers can identify signs of infant distress associated with SIDS. In addition, this section creates uniformity with current requirements to notify the infant's authorized representative or seek immediate medical attention, depending on what is observed. Should the infant experience any symptoms of distress, be in an unsafe sleeping position, or exhibit signs of overheating, the caregiver will be required to take immediate and appropriate action.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 101429(a)(2)(B) by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s) as outlined in 101429(a)(2)(B)(1) through (4). In addition, verbiage was changed for grammatical purposes.

Due to the amendments of requiring documentation, the Department has added Section 101429(a)(2)(B)(4)(a) through (d). This section requires documentation of the 15-minute checks be maintained in the infant's file and available to the licensing agency for review. This added section also outlines what information is required to be documented.

Section 101429(a)(2)(D) was added to clarify if the infant sleeping area is located in a separate room from where staff are located then a staff person is required to be in that separate room supervising the sleeping infants per Section 101429(a)(2)(A).

Section 101430(a)(3)(A)1.

Problem:

Section 101430, subdivision (a)(3)(A), as submitted, requires caregivers to place infants aged 12 months or younger on their back to sleep to reduce the risk of suffocation or SIDS. There is no provision that allows for a medical exemption for an alternative sleep position.

Specific Purpose:

This section is being adopted to provide caregivers with flexibility in relation to the sleeping positions for infants who require an alternative to being placed on their back for medical reasons. This section will permit caregivers to allow infants to sleep in an alternative position in accordance with medical recommendations if the recommendation is documented as specified.

Factual Basis:

This section is necessary to enable some infants to sleep in a manner contrary to safe sleep practices for medical reasons. The adoption of this section conforms to other Department regulations that allow caregivers to provide care and supervision consistent with professional medical advice.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 101430(a)(3)(A)(1)(e) by replacing the reference from "child" to "infant" for accuracy and consistency.

Section 101439.1(e)(1)

Problem:

Section 101439.1 sets forth the requirements for infant center sleeping equipment. Section 101439.1(e)(1) requires CCCs to change infant bedding daily, but does not require that it be cleaned as well.

Specific Purpose:

This section is being adopted to require caregivers to sanitize bedding for infants daily to reduce the spread of communicable diseases.

Factual Basis:

This section is necessary to require CCCs to maintain a sanitary environment for infants at their facilities. Caring for Our Children National Recommendations standards 3.3.0.4 and 5.4.5.1 are consistent with this conclusion.

Modification:

Following the public hearing, and at its discretion, the Department has removed the amendment made to Section 101439.1(e)(1) and will address proper cleaning and sanitizing practices in a future regulations package.

Sections 101439.1(f)(1) through (3)

Problem:

Section 101439.1 sets forth the requirements for infant center sleeping equipment. It does not include provisions that specify the use of cribs in a manner consistent with safe sleep practices for infants.

Specific Purpose:

This section is being adopted to require CCCs to maintain cribs free from all loose articles and soft objects. It prohibits the use of bumper pads, the presence of objects hanging above a crib or attached to the side of it, and the exclusion of pacifiers except under specified circumstances to eliminate suffocation or strangulation risks.

Factual Basis:

This section is necessary to require CCCs to implement safe sleep practices consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS. According to the American Academy of Pediatrics this requirement would reduce the risk of SIDS and suffocation. Caring for Our Children National Recommendations are consistent with this conclusion and the California SIDS Program and the American Academy of Pediatrics support it. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 101439.1(f)(1) to clarify the intent of the regulation, which is to allow pacifiers if specific safety precautions are followed.

Section 102425 (a)(5) through (7)

Problem:

FCCH Licensees currently do not have any regulatory provisions that require them to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the spread of communicable diseases.

Specific Purpose:

This section is being adopted to require licensees to ensure that infants are sleeping in an area that has been properly cleaned and sanitized to reduce the spread of communicable diseases.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of communicable diseases. It is the Department's experience that there is a need for regulations governing the cleanliness of bedding for infants, which can potentially protect children in our licensed child care facilities from exposure to communicable diseases. Caring for Our Children National Recommendations standards 3.3.0.4 and 5.4.5.1 are consistent with this conclusion.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 102425(a)(6) by adding "at least" into the language to make it clear that bedding can be cleaned more often than weekly or before the use of another child. In addition, reference to "child" was changed to "infant" for accuracy and consistency. An amendment was also made striking the word "should" and replacing it with "shall" for accuracy purposes.

Section 102425(b)(1 through 3)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to require licensees to keep a crib free from all loose articles and soft objects to eliminate suffocation or strangulation risks near a sleeping infant. Licensees are prohibited from using bumper pads for the same reasons. Pacifiers may be used if licensees comply with specified safety precautions.

Factual Basis:

This section is necessary to be in conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to the American Academy of Pediatrics, infant use of a pacifier while sleeping may reduce the risk of SIDS. The proposed requirements in this section are supported by American Academy of Pediatrics, Caring for our Children National Recommendations and the California SIDS Program. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 102425(b)(1) to clarify the intent of the regulation, which is to allow pacifiers if specific safety precautions are followed.

Sections 102425(c) through (c)(~~2~~ 3)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being adopted to require licensees to obtain a signed and dated Individual Infant Sleeping Plan from a child's authorized representative. By doing so, licensees acknowledge that they have discussed the sleeping habits of the infant enrolled in care with their authorized representative.

Factual Basis:

This section is necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendation standard

3.1.4.1, licensees should have a written policy in place that addresses safe sleep practices used in the facility. Other states such as North Carolina require a Safe Sleep Policy between the provider and parent and these policies were used when developing our own safe sleep plan. Furthermore, it has been the Department's experience that a need exists for safe sleep regulations, which could save the lives of infants in licensed child care facilities.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 102425(c) by replacing the reference from "child" to "infant" for accuracy and consistency.

Section 102425(d)(1)

Problem:

Section 102425(d), as submitted for adoption, requires licensees to place infants on their backs while sleeping. However, it does not permit licensees to allow infants to use a different sleeping position for verified medical reasons.

Specific Purpose:

This section is being adopted to provide licensees flexibility to allow infants to sleep in a position other than on their backs due to verified medical reasons. This section will allow for licensees to adhere to medical recommendations on a more individual basis. If the infant should need medical exemptions to the requirements, Section D of the infant's individual sleeping plan shall be used for this purpose.

Factual Basis:

This section is necessary to acknowledge that individual infants may have needs that require such flexibility. It is important for licensees to defer to licensed physicians regarding the medical needs of children in care. The adoption of this section conforms to other Department regulations that allow for medical professionals to address the infant's individual needs.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 102425(d)(1)(E) by replacing the reference from "child" to "infant" for accuracy and consistency. In addition, the Department has amended the same reference in Section 102425(d)(1) from 102425(e) to 102425(d) for accuracy and consistency.

Sections 102425(i)(1) through (7)

Problem:

The FCCHs currently have no regulatory provisions that require licensees to comply with specified infant safe sleep practices. Licensees are not currently in conformity with the national safe sleep standards for infants in child care settings to reduce the risk of SIDS.

Specific Purpose:

This section is being added to require licensees to check infants for specified signs of distress and follow proper medical and/or notification requirements upon the recognition of signs of distress. This section also requires licensees to check on the position of the infant and to reposition them if they cannot roll from back to stomach and stomach to back unassisted.

Factual Basis:

This section is necessary to ensure that licensees understand, recognize, and can respond to signs of infant distress. In a review of unsafe sleep related deaths and situations in which infants required medical care, the infant had been left alone for a period while sleeping. Requiring licensees to check infants in 15-minute increments during their sleep time increases the probability that the licensee will more promptly identify signs of distress and assist infants that display such signs. This section additionally creates conformity with other requirements about the licensee's responsibility to seek emergency medical care if the situation warrants this response.

Modification:

Following the public hearing, and at its discretion, the Department has amended Section 102425(i)(2) to require the licensee to document the condition of the infant(s) as outlined in 102425(i)(2)(A) and (B). In addition, verbiage was changed for grammatical purposes.

Due to the amendments requiring documentation, the Department has added Sections 102425(i)(2)(D)(a) through (c). This section requires documentation of the 15-minute checks be maintained in the infant's file and available to the licensing agency for review. This added section also outlines what information is required to be documented.

b) Local Mandate Statement

There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code (GC) because

any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the GC.

d) Statement of Alternatives Considered

No alternatives have been presented for consideration, as the Department feels there are no safer or equivalent alternatives it is willing to consider.

e) Statement of Significant Adverse Economic Impact On Business

The Department has determined that the proposed action will have an economic impact on Family Child Care Home facilities, as they will be required to have a crib or play yard for each infant in their care. The Department is allowing the play yard to be used as a substitute of a crib to be a less burdensome option for the child care providers who may not be able to afford the cribs or do not have the space for multiple cribs. Play yards allow for a safe and more affordable alternative to cribs, while still being considered a safe sleep surface.

f) Testimony and Response

These regulations were considered as Item #1 at the public hearing held on September 19, 2018, in Sacramento, California. Oral testimony was received during the public hearing, as well as written testimony during the public comment period (August 3, 2018 to 5:00 p.m. - September 19, 2018).

Comment from Kristel England

1. Section 45-310.231(c)

Comment:

"I am a parent and I work in the child care industry.

I am writing you to oppose the proposed guidelines that prohibit the swaddling of infants during sleep time.

I am raising three children who all required swaddling as infants, one of them until his 8th month. Most of the time, my infants would not fall asleep, even in my arms, unless they were swaddled. Swaddling has been proven to comfort babies and help them to feel more secure; and thus, it calms their nervous system, helping them to sleep better and longer. In taking this option away from caregivers, this regulation will likely increase the stress on both the caregiver and the infant. The mental and emotional health of the children, as well as the caregiver, should be an important consideration as new policies are developed to protect children physically.

I understand the concern regarding SIDS, but if swaddling were the cause, there would be far more than 36 deaths per year, as even hospitals swaddle infants and teach parents to do so as well. If swaddling is a suffocation danger, more tempered policies should be developed such as: only using one swaddling blanket, of breathable fabric, at one time for sleep; and/or have a support structure so that swaddled infant cannot inadvertently rollover (nurses have recommended halved pool noodles or tightly rolled receiving blankets under the sheet, though there are commercial options as well).

In closing, I ask you to remove the anti-swaddling for sleep provision from the proposed Safe Sleep Regulations. Anti-swaddling measures pose a greater risk to the mental and emotional health of infants, than swaddling poses to SIDS."

Response:

The Department acknowledges this comment. Regulation sections 101430(a)(3)(C) (CCC) and 102425(f) (FCCH) are necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk sleep related infant fatalities. According to Caring for our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care facilities.

Comment from Jackie Clegg

Comment:

"As a director of a licensed child care center, we follow current regulations, safe sleep best practices, and all licensing instructions and recommendations to provide constant direct visual supervision of sleeping infants by a dedicated staff member. We feel that the conflicting regulations between Family Child Care Homes and Child Care Centers are confusing and contradictory, and deemphasize the importance of supervision, by allowing FCCH to check on sleeping infants only as often as every 15 minutes. At the very least, we would like to see specific evidence and arguments explaining the factual basis behind these very different policies for infants."

Response:

The Department acknowledges this comment and recognizes the difference between Family Child Care Homes (FCCH's) and Child Care Centers (CCCs). Proposed regulations have been revised so that FCCHs and CCCs will be required to physically conduct 15-minute checks and document the condition of the infants. In CCCs, the Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

The Department has considered your comments and determined that no further amendments are required.

Comment from Emily Bugos

Comment:

"I am unclear on the proposed revision to section 101439.1(f) 1-3 in regard to pacifier use:

My understanding is that it states that pacifiers will no longer be permitted in CCCs; is this saying pacifiers will not be permitted at all or just if points A, B, and C come into play (such as a pacifier with something attached or a child being forced to use a pacifier)? IF it is proposed that CCCs will not be permitted to use pacifiers at all, my question is — why? The American of Pediatrics states that pacifiers reduce the risk of SIDS, though I understand this regulation is being proposed to reduce the risk of suffocation/strangulation. I just want to be clear on what I am reading. Thank you!"

Response:

The Department acknowledges the comment and would like to provide clarification on the use of pacifiers. Sections 101439.1(f)(1) and 102425(b)(1) do not exclude the use of pacifiers, but the regulations do include previsions to ensure they are used safely during infant sleep. The Department amended the proposed regulation language to clarify the requirements surrounding the use of pacifiers. The new requirements will now read "Pacifiers shall be allowed in the crib or play yard if the following provisions are in place."

Comment from Jenny Johnson at Village Montessori Center

Comment:

"In regards to the proposed regulations for Infant Toddler Child Care Centers,

Our child care center operates an Infant Toddler Program. As many of you are aware, operating a high quality Infant Toddler program is quite expense and can be cost prohibitive for many families. In our area, there are very few available Infant Toddler programs, and most carry a wait list of over 12 months.

On its own, an Infant Toddler Program is not cost effective and actually loses money each month. The tuition and fees collected do not cover the costs of payroll, rent, and administration overhead. Especially as we see the minimum wage increase. We must constantly be adjusting the tuition and fees in order to continue offering the Infant Toddler Program.

One area that is extremely costly is that even though the crib/sleeping area is separated by a half wall, which is clear, we must dedicate one staff member to the sleeping area. If the Child Care centers could be allowed to be treated more similar to the Family Home Centers - in which a sleeping infant may be in the close proximity, but a dedicated person is not required to be watching the sleeping child - child care centers would not be forced to charge so much for the tuition and fees.

Having one dedicated staff member to be paid to watch over the sleeping child, even with the clear, half wall is extremely expensive.

We would request the ability to allow for sleeping infants to be 'co-mingled' with the awake infants OR with the situation of a clear, half wall for the sleeping area - that the overall ratio be allowed to include the sleeping child. This would greatly help in ratio and staffing, which will in turn assist in keeping the costs down for the parents."

Response:

The Department appreciates your comment and acknowledges your concern with the proposed regulation. The Department amended the proposed regulation and will not prohibit the use of transparent walls or half walls allowing for constant visual and auditory supervision through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Comment from Senchal Rodriguez at Center Director Educare

Comment:

"I have been working with infants for over 5 years and am now the director if an infant toddler program at Educare Silicon Valley. My concern is that needs are not being met because taking a teacher out of ratio to watch sleeping infants is not always best practice. Of course, if the napping room is separate then yes there needs to be a body swathing. Where i work, we have a half clear wall and can visually see the sleeping infants and hear them as well. What I've found beneficial is if we have 3 or more sleeping then yes it makes sense to allow a teacher to be in the napping area but often times we only have one or two napping in a class of 9 infants and only three teachers that have to rotate breaks, change diapers, feed children, do dishes, etc. this creates stress for the staff and we know stress isn't a comfortable environment for infants. what happens when you have one teacher who leaves for lunch break while 5 are awake and 4 sleeping and 2 wake up and are sent to the teacher who is now with 7 infants out of ratio while the other teacher has to watch the 1 sleeping infant? an infant classroom when using best practice allows the children to sleep as needed and we understand infants sleep at all different times. i worked with a half clear wall and have had some of the best outcomes and safe strategies. when following the no swaddle, no blankets or items in crib and using appropriate cribs as well as sleeping on back for under 12 months the supervision is easier to maintain. Safety is always a big concern and will

continue to be but safety is also important for the infants that are awake as well. thank you"

Response:

The Department appreciates your comment and acknowledges your concern with the proposed regulation. The Department amended the proposed regulation and will not prohibit the use of transparent walls or half walls allowing for constant visual and auditory supervision through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Comment from Karina Medina, Audria Bazemore, Vanesa Centino, Michelle Ball, Linda Roberts at Merryhill School

Comment:

"Dear Community Care Licensing,

I am writing on behalf of myself and my fellow teachers of Nobel Learning Communities. We are extremely concerned with the new regulations being proposed by the state related to safe sleep for infants in center-based care. The provision requiring a staff member to be physically present in the designated sleeping area whenever an infant is asleep in a crib is what I am referencing.

Because California requires physical partitions for infant sleeping areas, this new provision would effectively limit one staff member to that area for the majority of the day. If California would remove its requirement for maintaining partial walls between sleeping areas and the rest of the infant classroom, this would alleviate our concern. Caring for Our Children does not recommend separate sleeping rooms for infants precisely because of the strain on supervision. In fact, almost every other state has removed separate sleeping room requirements in recognition of this fact.

Our schools work hard to provide the highest quality child care in our infant rooms. Designating one person to the partitioned sleeping area for most of the day is not a good use of our talents and resources. We know the additional labor costs required to institute this change will transfer funds from are already tight supply and equipment budgets to help offset the additional labor.

My fellow teachers and I have been working hard for years to utilize every penny we get to help the children in our care receive the best learning experiences. This would clearly be a negative impact on us and the industry which already struggles to pay livable wages. I know a number of teachers at other schools who have shared similar concerns regarding this provision.

I am asking you to review and remove this provision. I appreciate what Community Care Licensing does to help keep programs in our state functioning in the best interest of the children and I look forward to seeing positive changes to this proposed regulation. Thank you for listening."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulation. The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

The Department has considered your comments and determined that no further amendments are required.

Comment from Claire Bainer MAed at BlueSkies for Children

Comment:

"To Whom it May Concern;

I submit this feedback regarding potential changes to Title 22 California Code Licensing Regulations regarding the proposed changes, their problematic sections, and contradictory sections.

Section 101419.2(b)(2) and (b) (2) (A)
'CC facilities should have written policy that address sleep practices within the facility.' This contradicts the Needs and Services plan which states that The Needs and Services Plan should provide an opportunity for parents and teachers to discuss the individual needs of the baby in the and create an individual plan according to the family and the child's needs, as well as licensing's.

Section 101226
Requires caregivers to check on the position of the infant and reposition them if they cannot roll unassisted.

This sounds like teachers are being asked to disturb sleeping babies by repositioning them–How will the infants lack of deep, restful sleep be protected? Babies bodies are growing and their internal systems are organizing as they sleep: organs are growing, blood is pumping, neurological systems are developing. Deep sleep is when all the infants' energy can go into this growth and is crucial for healthy infant development.

Many babies are difficult to put to sleep and sleep lightly; these babies will be disturbed by being flipped over in sleep. This is not a healthy practice.

Section 101430(a) (3) (A)
Requiring parents to take a baby to the doctor to have a form signed stating the child can change positions safely is disrespectful to both teachers, caregivers, and parents, as they can surely tell if this is safe without the expense and inconvenience of requiring taking the child to the doctor and requesting they sign a form stating something they likely won't even witness in a 15 minute appointment.

Section 101430(a) (3)
Due to the immature nervous system, infants often startle themselves awake by jerking in their sleep. Swaddling simulates the in-utero feeling of safety and being held. The vulnerable newborn can relax and rest in the swaddled state because it is familiar and soothing. Babies have been swaddled and been happy since 1 AD and I would strongly advise not 'fixing something that is not broken.'

Section 101439.1(f) (1)
The exclusion of pacifiers except under special circumstances:
Babies use pacifiers to self-soothe and to calm themselves. This is very important in child care centers, where children are away from parents for long hours. If the concern is strangulation, illuminate the ways to attach pacifiers to children's clothes, put expirations dates on the pacifiers, and/or require sanitation standards–Don't ask babies to give up a familiar comfort that is used at home when other systems can be adjusted to keep them healthy and safe.

Section 102425(a)(5 through (7)
What is the actual requirement? Assign beds or change sheets daily?

Section 102425(b) (1 through 3)
Pacifiers may be used if licensees comply with safety precautions:
What are the precautions?

Section 102425 (e) and (e)(1)
Prevent licensees from forcing infants to sleep, stay awake, or stay in the sleeping area.

A programmatic requirement that infants under one year be allowed to follow their own sleep schedule would ensure that teachers are constantly going into and out of the sleeping area on a regular basis, getting children up and putting children down. Most infants wake and sleep on two to three hour hunger intervals: If the center has more than six infants the teachers will be feeding and helping children to sleep all day. No one can force an infant to sleep, just as no one can force children to sleep in specified positions. Swaddled infants could be in cradles in a quiet corner, protected from crawling babies and babies pulling up by a fixed divider. They do not need to be in a sleeping area and isolated."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations. Please see the following clarifications on the comments regarding needs and services plan, pacifier use, swaddling, doctors note requirements, and bedding:

Needs and Services Plan

Sections 101419.2(b)(2) and (b) (2) (A) do not contradict the Needs and Services Plan, they are an addition to the plan to ensure parents and staff are discussing safe sleep practices.

Pacifiers

Sections 101439.1(f)(1) and 102425 (b)(1) do not exclude the use of pacifiers, but the regulations do include previsions to ensure they are used safely during infant sleep. The Department amended the proposed regulation language to clarify the requirements surrounding the use of pacifiers. The new requirements will now read "Pacifiers shall be allowed in the crib or play yard if the following provisions are in place..."

Swaddling

Sections 101430(a)(3)(C) (CCC) and 102425(f) (FCCH) are necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care.

Form LIC 9227

Section 101430(a)(3)(A)(1) does not require a doctor's note to determine if an infant is able to roll, the proposed regulations require form LIC 9227, which allows a parent to certify the infant's ability to roll from their back to their stomach and stomach to back unassisted.

Infant Bedding

Sections 102425(a)(5) through (7) requires fitted sheets to be replaced when wet or soiled, each infant's bedding be used for him or her only and that soiled bedding be placed in a suitable container and inaccessible to infants until washed.

The Department has considered your comments and determined that no further amendments are required.

Comment from Hala Abbas

Comment:

"My comment will be while infants sleep there should be supervision all the time , also like in my Daycare the cribs shouldn't have any hazards objects."

Response:

The Department appreciates your comments. Child Care Center (CCC) Title 22 regulation section 101429 (a)(2) requires that sleeping infant(s) shall be directly observed by sight and sound at all times. The Department has also amended 101429 by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant. In addition, FCCH regulation section 102425 (i)(1) through (2) was amended to require the licensee to physically check on the sleeping infant every 15 minutes and document the condition of the infant. Furthermore, the Department has proposed regulations that do not allow any loose articles and objects in cribs or play yards for both FCCH and CCCs.
The Department has considered your comments and determined that no further amendments are required.

Comment from Karen Porter of Home Tweet Home Childcare

Comment:

"Hi, I would like to comment on the proposed regulations for infant sleeping in a licensed childcare home. I have been licensed for 23 years and providing childcare to a wide variety of ages including infants. I have read through the proposed changes and most of it doesn't affect anything I'm doing as I have always put infants down on their backs until they were able to roll and then made sure the parents knew they were sleeping in a position other than their backs. I think that part of the plan is great especially for new providers who don't realize what they need to do. One of the few things I have an issue with is: the No swaddling of infants. Currently I have 2 infants ages 4 and 6 months both of whom were swaddled by their parents and both parents brought the swaddles from home as well as a lightweight blanket to use on them. For both of these children that was the ONLY way they fell asleep and stayed asleep for any length of time. They both started at under 3 months of age so the parents had established the swaddling and it was very calming and soothing to the children and did not allow for the startle reflex that all infants have to wake them up. Had I not been able to use this technique with them they would not have slept well while in my care and would have demanded all my time and attention and the other 4 children would not have gotten good naps either as the crying would have woken everyone up. I don't understand how you can make a requirement that we don't do something when the parents come to us with the child already having done it since birth and now we are expected to change it all up and make the child sleep without it. Their sleep patterns will completely change and they will be so cranky that it won't be good for them or the other children when naps are cut

so short. I would ask that you reconsider this portion of your requirements as I have a feeling a lot of parents will be very unhappy their children are not sleeping well while in our care just because we can't do something the parents are doing at home that when done correctly is not harmful to the child. Perhaps you could add something to the form about is your child swaddled and has the provider shown you how they will perform this while the child is in our care. Also checking on children every 15 minutes. How are we supposed to chart or prove that this happens and what about children who wake up at the slightest sound. I currently have a child who will wake up when he hears footsteps on carpet so if his door is open at all even with music he will not sleep more than 10 minutes at a time which is not healthy for him.

Also how are we supposed to assess skin color, body temperature or labored breathing in a dark room where the children are asleep without disturbing them and waking them up which defeats the whole purpose of a nap. I understand that some people do not check on children who are asleep and do things wrong but why are those of us doing it correctly punished and you make it so hard for us to care for these children like their parents do and with what works for each child. How close do we have to be while they are sleeping? Many times I let the older kids play outside and can hear the babies if they wake from my patio. Will that be ok now or not? There are a lot of grey areas in these new regulations which worries me and all my daycare parents who I share this info with. I always ask my parents how their children sleep and for a sleep schedule when they first come and if they don't really have one I give the parents tips and tricks as to how to get them on one so everyone gets some much needed sleep. I see all of this as having such a negative impact on children's sleep which is already a huge problem in that most kids do not get enough and now you are trying to take away another tool for us to use to help them learn to settle and fall back asleep if they do awaken. Also the part about infants shall not be forced to sleep or stay awake in the napping area. What does that mean? Can we not let a child cry themselves to sleep if that's what the parents do. You can't physically rock every child to sleep in your care nor do I do that even if I just have one as it's a bad habit to get them into to not be able to fall asleep on their own which for some infants can take 20-30 minutes. I also do not rush in to get a child who has just woken up if they have had a short nap as many times they will learn to put themselves back to sleep. It's a skill they need to learn not something they are born with. I guess I'm just not sure parts of this plan will work for every child in every situation. They are all different and unique and I feel you are trying to fit them all into one mold which simply will not work. We are already so short of infant care providers in el dorado county if you continue to make the rules such that people can't take good care of these kids and don't feel they can adhere to them then we will have even fewer providers and then what will parents do for childcare.

I understand there are those that screw things up but the vast majority of us who have done this for a while are being made to pay the price for the few that didn't do it correctly. Thank you for reading this and I sincerely hope you do not choose to add the rules in without a few changes made."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulation.

Swaddling
Regarding swaddling, Caring for our Children National Recommendations Standard 3.1.4.2 states that swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care.

15-minute Checks
Regarding your concern about light and waking up sleeping infants when conducting the 15-minute checks, the proposed regulations allow for the individual provider to best determine how to conduct the 15-minute checks. The intent of proposed regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. The intent is to not disturb the infant, but rather to check on them to ensure they are not exhibiting any signs of distress. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. To address the 15-minute documentation concern, the Department has amended this regulation to require the licensee to document the condition of the infant(s) as outlined in Section 102425(i)(2)(D).

The Department has considered your comments and determined that no further amendments are required.

Comment from Riza Hassel of USA Kids Childcare

Comment:

"Hello,

I am writing you in regards to the new regulation and restriction of not allowing an infant sleeping on the car seat. I am against it. As long as the baby is well and healthy, he can sleep in his car seat. His car seat is designed to allows him to sleep comfortably when he needs to with his head and back supported.

I have cared at least three hundred infants in my twenty plus years in the childcare industry. And the fact, the nature of our job is too risky yet NO INFANTS are injured in our entire childcare operation. When parents come in with the infant sleeping in the car seat parents and I we both agree 100% that DONT WAKE HIM UP, let him sleep and leave him alone!

- it gives comfort and soothes to infant when sleeping in the car seat.
- It makes him feel that he still inside his mother's womb.
- It helps an infant who has reflex - without swallowing back his milk.
- It's helps the providers in so many ways when putting an infant to sleep in the car seat
- No enough evidence or number of rate that many infants are injured in the car seat while sleeping at daycare facility
- It will not make sense taking out an infant while asleep
- It is already difficult to care an infant to begin with and now adding this non-sense regulations
- It will push providers NOT PROVIDING CARE FOR AN INFANT.
- It will make it very difficult to run a daycare and providing care for AN INFANT and prohibits an infant want to sleep in a car seat and provider get citations. NON-SENSE!
These are just quick information to write an appeal. In short, this is merely more JOB AND MORE REGULATIONS for providers. We already have 1000s of rules and regulations to comply. Therefore, I appeal NOT TO INCLUDE this in your BOOK-TITLE 22 without OUR INPUTS, IDEAS, COMMENTS and CONCERNS heard and considered first. After all, WE ARE THE PROFESSIONALS! If you have questions, please call me at 951-601-2072."

Response:

The Department acknowledges the comment regarding using car seats for sleeping infants. According to Caring for our Children, injuries and SIDS have occurred when children have been left to sleep in car seats or infant seats when the straps have entrapped body parts, or the children have turned the seats over while in them. Sleeping in a seated position can restrict breathing and cause oxygen desaturation in young infants. Therefore, no amendment is required.

The additional statements are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment.

Comment from Gina VanDusen

Comment:

"I have been caring for babies for over 30 years. If this passes I assure you that parents will not be able to find day care for their infants, as providers will no longer take infants. Whomever came up with this has obviously NO experience with babies what so ever. These are rules of a helicopter mom learned about in a course I took through a Nanny Association workshop.

The rules of this proposal in fact will make us all into horrible day care providers and actually go against what professional pediatricians and sleep therapists are recommending.

Babies need to be but on a consistent schedule to be happy, healthy, and well adjusted. Sleep is the most important to their happiness and good health. They need sleep training to get them on a schedule. The purposed rules will disrupt their sleep and cause upset in the daycare.

I assure you if these rules pass daycare providers will no longer provide for infants.

P.S. there is strong indication that many doctors, scientists and Robert F. Kennedy Jr. believe that the rise of the amount of vaccines given to infants causing SIDS deaths. There are too many toxins in today's vaccines for tiny babies to handle passing through the blood brain barrier into the brain, which would mean we have no control over SIDS via sleep practices. Robert F. Kennedy Jr. is working to "require" vaccine makers to make safe vaccines. Vaccine makers by law cannot be sued for vaccine damages. All suits are filed and go. Through the US government and are very hard to get into. All vaccine damage rewards are paid for my taxpayer's money, not vaccine makers. Vaccine makers are exempt for all vaccine injuries their vaccines may cause. Please visit World Mercury Project Worldmercuryproject.org"

Response:

The Department has reviewed and acknowledges the comments. The intent of proposed regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. The intent is to not disturb the infant, but rather to check on them to ensure they are not exhibiting any signs of distress. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. The proposed regulations are consistent with Caring for Our Children National Recommendations.

Therefore, the Department has considered your comments and determined that no amendment is required. The additional statements are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment.

Comment from Christa Edwards

Comment:

"As an early childhood educator, infant caregiver, and Head Teacher in an infant program for the last eight years, I am writing to address some of the proposed revisions/additions to sleep regulations. The exclusion of swaddling and pacifiers across the board is problematic to me, both as a professional infant caregiver and as a parent of a small child.

Some of the new regulations are great! The idea of requiring caregivers to sit together to discuss how a child sleeps is wonderful (though I think could be incorporated in the

existing Needs and Services Plans rather than being a separate document). Children have varying needs just as adults do, and many children are comforted and helped to feel secure, particularly as they are building relationships with their caregivers, by experiencing the same routines they encounter in their homes. Many families swaddle their children and give them pacifiers. By disallowing these at centers, we are eliminating ways for children to ease into a new place with new people, in a way that can negatively affect their brain development (by preventing their sleep). Children need to sleep soundly to process the new things they are encountering and to allow their still-developing systems to continue to grow and progress.

Also the proposal to reposition infants as they sleep seems very intrusive to me, and detrimental to the trusting relationship we attempt to develop with the children we care for. The existing and proposed requirements specifying the kinds of furniture that are acceptable for use and the barring of additional items in cribs ought to be sufficient to allow children to sleep as they wish, without adult interference unless injury is imminent. Requiring a doctor's note indicating that a child is able to roll is a huge imposition on parents, ultimately requiring them to schedule an appointment just for this purpose, wasting the limited time they already have with their children since they are likely to be working if their children are in centers in the first place. Aside from this regulation being disrespectful to the infant and family, if put into effect as is, it's additionally offensive to the caregiver, who can easily identify a child who is able or not able to roll, and certainly would err on the side of caution given a choice.

My concerns about these regulations, which I know are well-intentioned, are that they are codifying ways of thinking about children that objectify them, rather than treating them as the human beings they are and encouraging caregivers to think of children as things to be manipulated and controlled may ultimately do more harm than good in a childcare setting."

"Thank you again for your attention to this matter. I happened yesterday to come across this and thought it was also pertinent: "PERSONAL RIGHTS 101223 (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse or other actions of a punitive nature including but not limited to: interference with functions of daily living including eating, sleeping or toileting; or withholding of shelter, clothing, medication or aids to physical functioning." If interfering with sleep is considered punitive, then how can we not only encourage but require caregivers to do this? I hope you'll reconsider at least the repositioning of children as they sleep."

Response:

The Department acknowledges your comments and concerns. The proposed regulations on swaddling and sleep positioning for infants in care are consistent with national recommendations. According to Caring for our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS,

suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care.

As for pacifiers, the proposed Child Care Center regulation 101439.1 (f)(1) and FCCH regulation 102425 (b)(1) does not exclude the use of pacifiers, but regulations do include previsions to ensure they are used safely during infant sleep. The Department has revised the proposed regulation language to clarify the requirements surrounding the use of pacifiers. The new requirements will now read "Pacifiers shall be allowed in the crib or play yard if the following provisions are in place:.."

In addition, a doctor's note is not required to determine if an infant is able to roll, the proposed regulations include a form (LIC 9227), which will allow a parent to certify the infant's ability to roll from their back to their stomach and stomach to back unassisted.

The Department has considered your comments and determined that no other amendment is required.

Comment from Bobbie Rose from California Childcare Healthcare Program

Comment:

"Thank you very much for all of the careful and thoughtful work that went into these safe infant sleep regulations. The UCSF California Childcare Health Program (CCHP) will promote the messages through our EMSA-approved Preventive Health training program, informational materials on the CCHP website, workshops, and technical assistance. Our team is committed to reviewing and revising our materials to make sure they are consistent with new regulations. Please see the existing materials posted on the CCHP website http://cchp.ucsf.edu

Safe Infant Sleep Policy
Safe Infant Sleep Health and Safety Note
Safe Infant Sleep Fact Sheet for Families

I would like to voice a concern about Section 101439.1(e)(1). It is not consistent with CFOC or the proposed family child care home regulations as stated: "Bedding shall be changed and sanitized daily, or more often if required by (e) above."

There are two problems:
1. The frequency of routine cleaning (daily vs. weekly)
2. The use of the term sanitizing rather than cleaning. (Often sanitizing and cleaning are used interchangeably, but they do not have the same meaning.)

Caring for Our Children National Recommendations standards 3.3.0.4 and 5.4.5.1 are referenced but they are not consistent with this conclusion. The following are direct quotes.

3.3.0.4: Cleaning Individual Bedding
Bedding (sheets, pillows, blankets, sleeping bags) should be of a type that can be washed. Each child's bedding should be kept separate from other children's bedding, on the bed or stored in individually labeled bins, cubbies, or bags. Bedding that touches a child's skin should be cleaned weekly or before use by another child.
5.4.5.1
Clean linens should be provided for each child. Beds and bedding should be washed between uses if used by different children.

Also see CFOC Schedule K http://nrckids.org/files/appendix/AppendixK.pdf
Bed linens should be cleaned weekly and between uses if used by different children.

Definitions of cleaning, sanitizing, and disinfecting from CFOC:

Clean -To remove dirt and debris by scrubbing and washing with a detergent solution and rinsing with water. The friction of cleaning removes most germs and exposes any remaining germs to the effects of a sanitizer or disinfectant used later.
Sanitize - To reduce germs on inanimate surfaces to levels considered safe by public health codes or regulations.
Disinfect - To destroy or inactivate most germs on any inanimate object, but not bacterial spores.

The proposed language for the family child care home regulations is accurate, however. Fitted sheets shall be replaced when wet or soiled. (6) Each infant's bedding shall be used for him/her only. Bedding that touches a child's skin should be cleaned weekly or before use by another child. (7) Soiled bedding shall be placed in a suitable container and made inaccessible to infants until washed.

Please consider revising this section of the proposed center regulations so they are: consistent with CFOC; avoid creating confusion; and not imposing undue burden for infant care providers in licensed child care centers. Feel free to contact me if you have questions."

Response:

The Department appreciates your recommendation of updating the proposed regulations to be in alignment with Caring for Our Children National Recommendations. Therefore, the Department has removed the term "sanitize" from the proposed amendment 101439.1(e)(1) and will be adding this consideration to a future regulatory proposal.

The Department has considered your comments and determined that no further amendments are required.

Comment from Nora Winge

Comment:

"I am the owner of a Large Family Day Care Home #125400329. I recommend changing the wording in the proposed Ordinance, family childcare section, Infant Safe Sleep 102425 (i) (1) The licensee shall physically check on the infant every 15 minutes.

I always have a qualified assistant working with me and sometimes there are two qualified assistants working as I am at an appointment or taking care of other business. So the wording should include having the licensee or a qualified assistant physically check on the infant every 15 minutes."

Response:

The Department appreciates the comment regarding a qualified assistant being included in the proposed regulations. Though you can use an Assistant Provider to uphold the regulations to care for the children, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations.

The Department has considered your comments and determined that no further amendments are required.

Comment from Stacey Quezada

Comment:

This letter is in regards to Sleep care regulations 102427 Operation of a family child care home.
ORD.No.0318-03
Due to the new proposed sleep regulations as a parent and a provider a few of the proposed sleep regulation are against a parent's right for the child to sleep. I will outline the following proposed regulations that I personal don't approve of.

Infant Safe Sleep 102425

Section B Page 11
There shall not be nothing attached to the pacifier. Some children need to feel the comfort of the soft toy attached to the pacifier and taking it away from them is taking away a feeling they need to comfort themselves.

Page 11:
2. Bumper pads shall not be used. I feel that breathable bumper pads should be able to be used. It prevents an infant that is mobile from their legs from coming through the slats of the mini cribs. I have had some experience when I did not use the breathable bumpers that an infant foot/leg went through the slats. My mini cribs meet the current regulations.

Page 12: Letter F
Infants shall not be swaddled: I and many parents would agree that some children need to feel comfort of closeness. You are taking away the right of a parent who wants their child swaddled and a child's right to feel the closeness that a child feels when they co sleep with their parents.

H. If an infant falls asleep before being placed in a crib or play yard, shall move the infant to a crib or play yard as soon as possible. Why can't a provider hold a child while sleeping sometimes a child sleeps better? If a parent holds there sleeping child we the providers shall be able to hold the child too.

Page 12
1. The licensee shall physically check on the infant every 15 minutes. This is unrealistic expectations that a provider has to check on a sleeping child every 15 minutes for many reasons. License regulation 102417 (a) allows a provider/Licensee to be absent/away 20% of the day from the facility.
2 reason. We need to supervise all children. If we have to physically check in the sleeping infant every 15 minutes how are we supposed to do art, feed other infants their bottles, prepare meals/ give older children their food if we have to physically check on a sleeping baby. This is not logical. Babies need their sleep uninterrupted just like you do.

Page 12 # 2 A,B C,
As above License regulation allows a provider away from our business 20 % of the time. Therefore this cannot be implemented until it's revised.

Page 13 # 5 & A
If the door is open the noise from the non-sleeping children will awake, not allowing the infant to get proper sleep as needed for their growing development. Child need sleep and most children will be sleep deprived if we have to keep the door open. I would suggest Visual Monitors be used like mentioned in
(7) or this need to re revised because now your violating a child's right to sleep.

Thank you for understand our views as we licensee care deeply about the children we care for.

I agree with most of the New Proposed regulation but some of the ones I have listed above need to be reconsidered. I have been a license provider since 2002 and have

been in the Quality Counts Program since 2014. Again, please reconsider the proposed sleep regulation to make it fair for the child, the parent and the provider.

Response:

The Department has reviewed and acknowledged the comments and concerns.

Pacifiers
Regarding pacifiers, having anything attached to the pacifier including stuff animals poses a suffocation risk. This also applies to having anything attached to the crib. These requirements are consistent with Caring for Our Children National Recommendations.

Bumper Pads
Regarding bumper pads, the intent of proposed regulation 102425((b)(2) is to keep the crib free from all loose articles and soft objects to eliminate suffocation or strangulation risks near a sleeping infant. While the proposed regulations do not allow for bumper pads to be used in cribs, Family Child Care Home providers have the option to use a play yard that has an approved framed enclosure with integrated mesh or fabric sides approved by the United States Consumer Product Safety Commission.

Swaddling
In regards to swaddling, Caring for our Children National Recommendations Standard 3.1.4.2 states swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care.

Sleeping Infants
In response to the licensee not being able to hold the infant while they sleep, the regulations do not prohibit a licensee from soothing children in their arms to comfort them and get them to sleep. However, they should be moved to a safe sleep environment per regulation Section 102425(i) when possible, once they have fallen asleep. At which time, the licensee will be required to check on the sleeping infant every 15-minutes and document the condition of the infant.

15-Minute Checks
Regarding your concern about waking up sleeping infants when conducting the 15-minute checks and having to multitask with the other children, the proposed regulations allow for the individual provider to best determine how to conduct the 15-minute checks. The intent of proposed regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. The intent is to not disturb the infant, but rather to check on them to ensure they are not exhibiting any signs of distress. The proposed regulations were amended to require providers to document their checks by noting the date, infant's

name, and the time of each 15-minute check. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. Supervision of sleeping infants is important as it can help reduce the risk of sleep related deaths.

Assistant Providers
To clarify your concern regarding the licensee being the only one to conduct the 15-minute checks, one may use an Assistant Provider to uphold the regulations to care for the children. With that, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations. The Department has reviewed these comments and determined that no further amendments are required.
The Department has considered your comments and determined that no amendment is required.

Comment from Denine Hicks of Little Ducklings Preschool & Childcare

Comment:

"I have read the new sleep regulations and let me just say: I'm relieved I don't take infants under 12 months in my large family childcare! I do, however, serve so-called "infants" who are 12-24 months. Here is my input:

- Because the current regulations currently label all children from age 0-24 months as 'infants,' the new regulations are confusing.

- The new regulations need to clearly define the ages of the children for whom these regulations are intended and clearly state that they do not apply to children over a certain age. (e.g. I do not want my LPA citing me because a 13 month old 'infant' has a blanket in her Pack-n-Play)

- It would be beneficial to *everyone* if the State defined 'infant' as age 0 - 12 months and gave another name to children aged 12-24 months, e.g. Toddlers, Older Infants, Walking Infants — something — to clearly delineate to whom these new regulations apply."

Response:

The Department acknowledges your comment and proposed amendments. Regarding the ages of infants, to clarify, the Department defines an infant as a child under two years of age. Proposed regulation 102425(c) specifically identifies infants under 12-months of age, while all other proposed regulations do apply to children under two years of age. The intent of these regulations is to protect all infants in safe sleep environments by removing the risks that could attribute to SIDS or sleep related deaths. Therefore, the Department has determined that no changes to the proposed regulations are necessary.

Comment from Creative Minds Child Development Center

Comment:

We are writing to provide public comment on the proposed changes in Safe Sleep Regulations under the California Department of Social Services, ORD #0318-03.

We are a small neighborhood child care center with more than nine years of experience serving children from six weeks through six years of age. We are acutely aware of the dangers SIDS poses to the youngest of our children and respect the need for regulations to help prevent these tragic deaths. Our industry is constantly striving to find that balance of eliminating as much risk as possible for each individual child while providing care and supervision for the whole group in a sustainable way.

To this end, many of your proposed regulations make sense. For example, it seems very reasonable to ban recalled cribs, crib bumpers, or loose blankets hanging over the sides of the cribs. Leaving children's heads uncovered and transferring sleeping infants into their own cribs as soon as possible is very understandable. Putting young children to sleep on their backs is also quite prudent, and hopefully is already being done in most places thanks to the widespread 'Back to Sleep' public awareness campaign in recent years.

However, some other details in the proposed regulations are confusing or seem unnecessary. As an established child care center serving infants and therefore directly affected by these regulations, we would like to provide our input on these matters. Specifically:

Supervision of separate sleeping areas
Section 101429(a)(2)(A) states that 'a transparent wall or half wall does not take the place of a staff person in the designated sleeping area with constant visual supervision.' We understand that either a transparent wall (which can block sounds of distress) or a half-wall (which can block visual supervision) could be a problem, but what about a transparent half-wall? Please clarify this point. In our experience, a transparent half-wall is an excellent way to allow the youngest infants to have the freedom to play and move freely on the floor, and to sleep when needed, without their 12- to 24-month-old classmates interfering. It is easy to maintain full visual and auditory supervision of the infants in this space whether they are awake or asleep.

If this transparent half-wall is no longer legal, this would mean that even if only two children are present in the classroom, of whom one is sleeping and one is awake, there would have to be two teachers present at all times. This staffing change would have a dramatic and ongoing economic impact on small businesses including ours. A transparent half-wall is a reasonable accommodation that preserves infant safety -which is always the top priority -while respecting the realistic needs of the program as a whole.

Swaddling

Section 101430(a)(3)(C) states that 'infants shall not be swaddled while in care.' I realize there was a case recently in which a child care provider was prosecuted for excessively tight swaddling of children who were too old to need it, so it feels like this new regulation may be an overreaction to that case. That case was honestly not about swaddling -it was about outright abusive control over children's bodies. Similarly, the 2016 study about SIDS and swaddling only found an increased risk when swaddled infants slept their stomachs or sides, which is already banned by this regulation and by existing best practice guidelines.

In reality, reasonable swaddling is an important part of many children's sleep routines. For young infants with a strong startle reflex, for example, a gentle swaddle is calming and prevents them from accidentally waking themselves up with their random limb movements. For other children, the consistent soft sensory input of the swaddle blanket is very soothing and helps them to relax. Taking away that option would be detrimental to their ability to get consistent, restful sleep at school.

Moreover, this is an issue of respecting cultural diversity. Swaddling is important in many families because it is a traditional way of caring for infants around the world, so in our ongoing quest to partner closely with parents to provide consistent and culturally relevant care between home and school, it is important to be able to swaddle children who are accustomed to sleeping with that support at home.

It would be reasonable to regulate a maximum age or to add a guideline such as a gentle swaddle which does not leave marks on the child's skin. Obviously swaddling should never be used as a restraining device to control a child's behavior or force them to nap, but it should remain an option for young children who need it to help them sleep.

Pacifiers
Section 101439.l(f)(l)(B) states that 'there shall not be anything attached to the pacifier.' Banning the strings or clip-on straps that are sold for pacifiers makes sense because those can pose strangulation hazards. Our question is specifically about the Wub-a-Nub brand of pacifiers which many of our families use. These have a very small stuffed animal permanently attached to the pacifier. Since this is built-in and is not a string or strap, are these permitted, or are they still considered an attachment? Please clarify whether the Wub-a-Nub pacifiers are allowed or whether we need to work with our parents to choose another kind. (These double as both pacifiers and lovies/comfort objects for the children who use them, so we would not want to ban them if it's not necessary. If they are considered an attachment, we will inform our parents and ask them to find a substitute.)

Thank you for your consideration. We have the deepest respect for your efforts to keep our children safe, and we absolutely share that goal. We believe that clarifying your expectations and allowing for reasonable compromises on these points will help keep children safe by making it more realistic for providers to follow the regulations. Please consider our comments as part of your review process. If you have any questions or if

we can be of any further assistance, please call us at (408) 445-0101 or email richa@creativemindscdc.org."

Response:

The Department acknowledges these comments and provides the following responses:

Supervision with Transparent Walls or Half Walls
Regarding supervision, the Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Swaddling
Sections 101430(a)(3)(C) (CCC) and 102425(f) (FCCH) are necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care. With that, the Department recognizes the importance of supporting cultural practices. If a parent feels swaddling is necessary, the licensee may submit a request for an exception to their local regional office for review.

Pacifiers
In regard to pacifiers, the proposed Section 101439.1(f)(1)(B) states "There shall not be anything attached to the pacifier." Such a prohibition includes stuffed animals attached to pacifiers, as they can pose a suffocation risk.

The Department has considered your remaining concerns and determined that no amendment is required.

Comment from Gary Andary

Comment:

"The enclosed comments are presented to the Department for due consideration in the above-referenced matter, concerning the implementation of proposed 'Safe Sleep Regulations' within existing regulations contained in Title 22, CCR, Div. 12 for Infant Care Centers and Family Child Care Homes. I am submitting these comments with due

consideration for the health and safety of infants receiving care at child day care facilities, and the necessity of uniform and consistent enforcement. I worked for 30 years as a Licensing Program Analyst, original Child Care Ombudsman and Advocate, and Licensing Program Manager with the Community Care Licensing Division, having worked extensively with child day care facilities. I have served as a trainer for new Licensing Program Analysts in two offices, served on numerous regulatory task forces with Department administration in Sacramento, been involved in numerous enforcement actions with the Department, and made over 3000 visits to child day care facilities. In addition, I served for 17 years as an adjunct part-time college instructor in Child Care Administration and Health and Safety at various colleges. For the past 14 years, I have worked part-time as a private consultant and trainer to child care facilities, and been used as an expert witness by other legal entities regarding scope of care issues for child care facility civil and administrative litigation. I have consulted with many infant care center directors and staff regarding the feasibility and necessity of implementing the Department's proposed Safe Sleep Regulations, and have reviewed "best practices" publications regarding these issues, as well as licensing regulations for safe sleep practices in at least 15 states. I feel that my attached comments, in the order presented by the Department, are impartial and balanced, informed by practice, observation, and research during the past 43 years.

1. Section 101239.

Comment: There are a myriad of products annually banned or recalled by the U. S. CPSC, which may be found in Family Child Care Homes or Infant Care Centers. Many of these products do not relate at all to the care of children, but may be used by administrative or teaching staff for their personal use or other non-child care reasons. The proposed regulation is written too broadly, and it is unreasonable to expect facility staff and licensees to continually review the CPSC publications and web-site recommendations for all items that may be on the premise of a licensed facility. Moreover, CCLD staff would also be charged with having this continuous knowledge of all banned or recalled products that may possibly be at facilities, and would have to look for these items during licensing evaluation visits. This would result in additional personnel costs to the Department, additional costs of enforcement, and additional risks to facility operations by exposing all facilities to increased citations for possible "serious and immediate risk" to children, regardless of the actual observed risk.
In addition, this Section refers to *all* child care centers, including those with pre-school and school-age children, since it is in the General Regulations. As such, there has not been notice to these other categories of facilities provided by the Department, in violation of requirements by the Office of Regulation Development and Office of Administrative Law.

Recommendation:
(a) Delete proposed Section 101239(r) at this time, and re-issue under another regulation change notice by ORD, with clear notification to *all* types of child day care facilities affected by the proposed change. In addition, add the words "After notification by the Department…." at the beginning of the rewritten proposed new regulation. These

changes will align the newly proposed standards with the existing CCLD practice of providing internet and printed notification to licensees of a potential risk *before* their being subject to a deficiency citation.

2. Section 101429(2)

Comment: The Department is to be commended for recommending specific care practices with respect to sleeping infants. These include closer direct supervision and specific caregiver observations. In its Initial Statement of Reasons, the Department determined that there was no additional cost anticipated for Infant Care Centers by this regulation. This is simply not correct, since many infant centers will have to hire a separate staff position to provide required staffing ratios for the sleep area as well as activity space. It should be noted that, nationally, far more infants suffer Sudden Unexplained Infant Deaths in Family Child Care Homes than Child Care Centers. The Department has proposed a reasonable Family Child Care regulation standard of checking on sleeping infants every 15 minutes for specific signs and symptoms of distress. Since Family Child Care Homes may have up to 8 children, including 2 infants, it is reasonable and fair to propose *the same standard* for Infant Care Centers, for which a caregiver may only supervise no more than 4 infants. Several infant care center directors and licensees have advised this reviewer that they may be closing their programs as a result of the potential additional staff requirement in these proposed regulations. At a time when the California budget has had a substantial augmentation by the Governor's budget to increase infant care spaces, it is important to carefully consider any new regulations which may have the unintended consequence of reducing infant care spaces, or being a disincentive to creating new infant care spaces to meet the critical shortage of infant care spaces in California.

Recommendations:

(a) Rewrite Section 101429(a)(2) to read 'A staff person shall be able to visually observe and be able to hear infants at all times, and shall physically check on sleeping infants every 15 minutes'.
(b) Delete Subsection 101429(a)(2)(A), and Renumber Subsection 101429(a)(2)(B) to Subsection 101429(a)(2)(A), with the rest of the Subsection to read as originally written.
(c) Renumber Subsection 101429(a)(2)(C) to 101429(a)(2)(B) to read as originally written, with reference to '…subsections (A) 1. Or 2. …..' instead.

3. Section 101438.3(c.) ADDITIONAL PROPOSED REGULATORY CHANGE

Comment: The existing Infant Care Regulations were implemented in 1987. At that time, it was felt, through extensive state-wide hearings, that a 4 foot partition to separate infant center sleep area from activity space was a reasonable requirement (Section 101438.3(b)). Prior to that time, there were no specific infant care regulations, and no knowledge of safe sleep practices to help prevent sudden infant death. Over 30 years of practice and implementation observations has shown that these partitions have, instead, acted as barriers to easy supervision in an infant care center, preventing easy

access and supervision to sleeping infants by several staff members, and creating additional physical barriers to safety by complicating and slowing infant evacuation in case of an emergency. Small infant centers, such as those for 4 or 8 infants, have been especially encumbered by the requirement of a partition or barrier. Moreover, other states do not have this requirement in their infant care regulations, stating simply that infant sleep areas should be separate from activity areas. The assurance of undisturbed infant sleep is already provided for in Section 101430(a)(3), and can be met by the increase supervision required by the proposed regulations. The partition or barrier requirement is also not in the recommended federal best health and safety practices publication 'Caring for Our Children', 3rd Edition, and other national quality care standards, often quoted by the Department in its statement of reasons and justification for these newly proposed regulations.

Recommendations:
(a) Change wording in Section 101438.3 (c)(1) to simply read, "The sleeping area for infants shall be separate from the calculated indoor activity space. This space may be separated by use of a partition, use of separate rooms, or by separately group sleeping equipment in a designated area within a larger space, at the choice of the licensee."

(b) Delete subsections 101438 (1) and (2).

4. Section 101439.1(b) and (c), Infant Care Centers; and 102425(a) Family Child Care Homes

Comment: These subsections contain language requiring the licensee to determine whether an infant 'is unable to climb out of a crib' to determine whether an infant is required to sleep in an approved crib, or can sleep on 'floor mats or cots'. Since there are no objective criteria to make this determination without subjecting the infant to a potentially dangerous fall or injury, this reviewer recommends that the Department adopt a standard that is used throughout the United States in child care center safe sleep regulations, that can be uniformly applied to all infant care centers, and can be objectively evaluated by observation and documentation.

Recommendations:
(a) Rewrite Section 101439.1(b) to read 'A crib or portable crib meeting United States Consumer Product Safety Commission safety standards shall be provided for each infant under 12 months of age, or over 12 months of age who is not walking well enough to use a floor mat or cot.'
(b) Rewrite Section 101439.1(c) to read 'Floor mats or cots that meet the requirements of Section 101239.1(b) shall be provided for each infant who is over 12 months of age who is walking well enough to use a floor mat or cot.
(c) Rewrite proposed Section 102425 (a) to read, 'There shall be one crib or play yard for each infant under 12 months of age, or over 12 months of age who is not walking well enough to use a floor mat or cot.'

5. Section 101361 ADDITIONAL PROPOSED REGULATORY CHANGE

Comment: This Section was originally written to permit *flexibility* to allow typically developing children to continue in an Infant Center up to age 3 years, based on their emerging individual needs in the various developmental domains. This reviewer attended public hearings on the existing regulation, and the overwhelming public comment and concern was the well-being of infants who transition to preschool programs too soon, with higher staff-child ratios, abruptly upon turning age 2 years. The intent was to a allow Infant Centers to make a decision, with parent input and consent, to continue the child in an Infant Center until they were ready to make a *gradual* transition to a preschool grouping. However, practice has shown that Community Care Licensing staff typically view the words "developmental need" to mean that a child has to have a documented medical need, verified developmental disability, or other extraordinary need documented to allow the child to continue. This has resulted in numerous citations to Infant Care Centers for violation of Section 101152(i)(1) referring to the definition of an infant to "a child under two years of age", and Section 101161(a), which prohibits operation beyond the conditions and limits on the license. Despite the fact that Federal Early Head Start and California Infant/Toddler Child Care Funding Terms and Conditions for Infant Centers require these programs to serve children ages 0 – 36 months with continuity of care, licensing deficiency citations based on these apparently conflicting regulations and definitions have caused considerable harm to Infant Center programs, parents, and children who deserve to have their individual needs considered. The following regulatory changes are proposed to alleviate this problem that has existed for many years, and provide clarification and specific actions to be taken on behalf of these children by Infant Care Center and Community Care Licensing Staff.

Recommendations:
(a) Rewrite Section 101361to read, 'Notwithstanding Sections 101152 (i)(1) and (2), it shall be permissible for a child whose typical developmental needs require continuation in an infant care center to remain in an infant care center up to a maximum of three years of age. This shall be verified by written parent permission and infant care center permission'.

6. Section 101428(b) ADDITIONAL PROPOSED REGULATORY CHANGE

Comment: This Section contains three references to infants being kept 'clean and dry at all times'. It is not humanly possible to keep an infant clean and dry at *all times*, taken in the literal and practical sense. An infant has to soil or wet their diaper, or visibly soil their outer clothing, *before* a caregiver can notice that they need changing. An infant in diapers is estimated to urinate about 20 times per day. Moreover, the regulation as written provides no measurable standard or direction to infant care staff as to frequency of needed diaper and clothing change. This reviewer contacted several infant care programs, accredited by the National Association for the Education of Young Children (NAEYC), who utilize known best practices in their infant care programs. Diaper checking policies range from every hour to every 2 hours, with variations on diaper checking based on individual infant needs at various critical times throughout the day.

The proposed regulation changes, below, accommodate these reasonable and achievable standards for maintaining infant sanitation and health with respect to diapers and clothing.

Recommendations:
(a) Change Section 101428(b) to read, 'Infants shall be kept clean and dry as is practicable, allowing for varied and changing infant needs'.
(b) Change Section 101428(b)(1) to read, 'Infant care centers shall establish a regular practice and schedule for checking infant diapers for possible needed diaper changes.'
(c) Change Section 101428(b)(2) to read, 'Sufficient changes of clothing and diapers shall be available to ensure that basic cleanliness and health standards are maintained for each infant.'"

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Crib and Mat Use – Sections 101439.1(b) and (c)
Regarding your suggestions to rewrite Sections 101439.1(b) and (c), the department encourages licensees and providers to speak with the infant's parents regarding the child's abilities through all phases of the child's development. Together, both the licensee and parent can decide when the infant is ready to transition to a mat or cot. The department considered your suggestion and determined that no amendment is required.

Infant Supervision
Regarding supervision, the Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

15-Minute Checks

The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Consumer Product Safety
Regarding Section 101239, the intent of the regulation is to protect all infants in safe sleep environments by removing the risks that could attribute to SIDS or sleep related deaths. The Department encourages licensees to consult the Consumer Product Safety Commission (CPSC) website as it is the most up to date and accurate source. The additional suggested amendments are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment.

The Department has considered your comments and determined that no further amendments are required.

Comment from La Petite Academy, Childtime Learning Center, Tutor Time, and KinderCare Education

Comment:

"As a child care provider in California, we are pleased to respond to the notice of proposed changes in regulations of the California Department of Social Services (Department) as relates to safe sleep regulations, ORD No. 0318-03.

We believe that every child deserves the opportunity to learn and grow in the types of high-quality classrooms that our members provide. When parents leave their child in the care of one of our members, they expect their child to receive a high-quality education, to be well cared for and safe. Ensuring child care staff are trained in and follow safe sleep practices is a critical component of infant safety in child care settings. Since the American Academy of Pediatrics (AAP) first issued its recommendation in 1992 that infants be placed on their backs to sleep, followed by the 1994 launch of the Back to Sleep Campaign, the United States has seen a fifty percent reduction in the number of infants dying from Sudden Infant Death Syndrome (SIDS).

We are highly supportive of California incorporating AAP recommended safe sleep practices into child care licensing regulations. Our organization adopts the AAP recommendation that '[all] state regulatory agencies should require that child care providers receive education on safe infant sleep and implement safe sleep practices.'

We are following recommendations for improving upon the Department of Social Services' proposed changes to Title 22, California Code Regulations (CCR) as relates to safe sleep practices in licensed child care settings.

Staff Training in Safe Sleep

As stated above, we support the AAP recommendation that all staff working with infants in a child care setting should receive training on safe sleep practices and implement those practices. While adding requirements to implement safe sleep practices, California's proposed regulations are missing critical training requirements. Implementation of safe sleep practices will not be successful in the absence of training. We recommend that the state add requirements for training in safe sleep by amending current state regulations as follows—

101415 INFANT CARE CENTER DIRECTOR QUALIFICATIONS AND DUTIES 101415

(a) In addition to Section 101215.1, the following shall apply:

(b) The experience requirement specified in Sections 101215.1(h)(1), (2) and (3) shall be completed in an infant care center or a comparable group child care program dealing with children under five years of age.

(c) At least three of the semester or equivalent quarter units required in Sections 101215.1(h)(1)(B), (h)(2) and (h)(3) shall be related to the care of infants.

(d) When the director of an infant care center or the director of a combination center is temporarily away from the center, the director has the authority to delegate his/her responsibilities as specified below:

(1) When an assistant director is required, arrangements shall be made for the assistant director to act as a substitute.

(A) Arrangements shall be made for a fully qualified infant care teacher to act as a substitute for the assistant director.

(2) When an assistant director is not required, arrangements shall be made for a fully qualified infant care teacher to act as a substitute.

(3) If the absence is for more than 30 consecutive calendar days, the substitute director shall meet the qualifications of a director.

(e) Within thirty (30) days of employment and on an annually thereafter the director of an infant care center shall complete training regarding the most current version of the American Academy of Pediatrics (AAP) recommendations for a safe infant sleeping environment.

101415.1 ASSISTANT INFANT CARE CENTER DIRECTOR QUALIFICATIONS 101415.1 AND DUTIES

(a) In addition to the director, an assistant director shall be present and on duty if the center has 25 or more infants in attendance.

(b) The assistant infant care center director shall meet the following qualifications:

(1) Be a fully qualified infant care teacher.

(2) Have completed, with passing grades, at least three postsecondary semester or equivalent quarter units in administration or employee relations at an accredited or approved college or university.

(A) The assistant director may complete the three units required in (b)(2) above within one year following initial employment as assistant director.

(B) The assistant director shall work under the direction and supervision of the infant or child care center director.

(C) Under the leadership of the director, the assistant director shall be responsible for the infant care center or the infant care component of a combination center.

(3) Within thirty (30) days of employment and annually thereafter have completed training regarding the most current version of the American Academy of Pediatrics (AAP) recommendations for a safe infant sleeping environment.

101416.2 INFANT CARE TEACHER QUALIFICATIONS AND DUTIES 101416.2

(a) Notwithstanding Section 101216.1, the following shall apply:

(b) Prior to employment, an infant care teacher shall have completed, with passing grades, at least three postsecondary semesters or equivalent quarter units in early childhood education or child development, and three postsecondary semester or equivalent quarter units related to the care of infants, at an accredited or approved college or university.

(1) After employment, a teacher who has not completed the course work required in (c)(1) below shall complete, with passing grades, at least two units each semester or quarter until the education requirements are met.

(c) To be a fully qualified infant care teacher, a teacher shall have the following:

(1) Completion, with passing grades, of 12 postsecondary semester or equivalent quarter units in early childhood or child development education at an accredited or approved college or university.

(A) At least three of the units required in (c)(1) above shall be related to the care of infants or shall contain instruction specific to infants.

1. Examples of acceptable course work are pediatric nursing and postnatal care.

(2) At least six months of experience in a licensed infant care center or comparable group child care program for children under five years of age.

(A) Experience shall be verified as having been performed satisfactorily, at least three hours per day for a minimum of 50 days in a six-month period, as a paid or volunteer staff member under the supervision of a person who would qualify as a teacher or director under this chapter.

(d) A photocopy of each teacher's transcript(s) documenting successful completion of required course work shall be maintained at the center.

(e) Under the direction and supervision of the director and the assistant director, the infant care teacher shall provide direct care and supervision to infants at the center.

(f) Teachers shall visually observe aides whenever aides are working with infants, except as provided for in Section 101416.5(d)(1).

(g) An infant care teacher shall complete 16 hours of health and safety training if necessary pursuant to Health and Safety Code Section 1596.866.

(h) Within thirty (30) days of employment and annually thereafter an infant care teacher shall complete training regarding the most current version of the American Academy of Pediatrics (AAP) recommendations for a safe infant sleeping environment.

101416.3 INFANT CARE AIDE QUALIFICATIONS AND DUTIES 101416.3

(a) In addition to Section 101216.2, the following shall apply:

(b) An infant care aide shall work under the direct supervision of the director, the assistant director or a fully qualified teacher, except as provided for in Section 101416.5(d)(1).

(c) Aides shall participate in the on-the-job training programs provided by the licensee as specified in Section 101216(e).

(d) An aide shall provide direct care and supervision to infants.

(e) Within thirty (30) days of employment and annually thereafter an infant care aide shall complete training regarding the most current version of the American Academy of Pediatrics (AAP) recommendations for a safe infant sleeping environment.

Direct Supervision of Sleeping Infants

We support the intent of proposed amendments to section 101429. Ensuring that child care staff can directly visually observe and hear sleeping infants at all times is critical to the implementation of safe sleep practices. However, we believe the state undercuts this goal by retaining the current regulation in section 101438.3(c) which requires that the infant sleeping area be "physically separate" from the infant indoor activity space.

We know of no health and safety rationale for physically separating the infant sleep area from the indoor activity area. To the contrary, physical barriers such as those required by current 101438.3(c) diminish health and safety and run counter to recommended

best practice. *Caring for Our Children (3.1.4)* recommends against separate sleep areas for infants:

> *'The construction and use of sleeping rooms for infants separate from the infant group room is not recommended due to the need for direct supervision. In situations where there are existing facilities with separate sleeping rooms, facilities have a plan to modify room assignments and/or practices to eliminate placing infants to sleep in separate rooms.'*

To ensure caregivers have an unobstructed view and thereby direct line of sight and sound to sleeping infants, we recommend California strike the current section 101438.3(c) requiring the physical separation of the infant sleep and indoor activity areas.

We recommend amending current 101438.3(c) and proposed 101429 as follows—

101438.3 INDOOR ACTIVITY SPACE FOR INFANTS 101438.3

(a) In addition to Section 101238.3, the following shall apply:

(b) Indoor activity space for infants shall be physically separate from space used by children in the child care center and school-age child care center components.

> *(1) The center may use moveable walls or partitions to separate the above groups in the same room provided that each group has the total amount of square footage in indoor activity space required by this chapter.*
>
> *(2) Moveable walls or partitions, if used, shall be at least four feet high; shall be constructed of sound absorbing material; and shall be designed to minimize the risk of injury to infants.*

(c) The calculation of indoor activity space for infants shall not include space designated and used for cribs.

> ~~*(1) The sleeping area for infants shall be physically separate from the indoor activity space. This separation shall be accomplished as specified in (b) above.*~~

(d) The various child care center components in a combination center may share office space, food preparation space, storage space and any other general-purpose space.

(e) The indoor activity space shall be equipped with a variety of age-appropriate washable toys and equipment.

101429 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION FOR INFANTS

(a) In addition to Section 101229, the following shall apply:

(1) Each infant shall be constantly supervised and under direct visual observation and supervision by a staff person at all times. Under no circumstances shall ANY infant be left unattended.

~~(2) A staff person shall be in the designated sleeping area, visually observing and able to hear the infants at all times.~~

~~(A) A transparent wall or half wall does not take the place of a staff person in the designated sleeping area with constant visual supervision.~~

(B) While infants are sleeping, staff shall check for the following:

1. Labored breathing.

2. Signs of overheating: flushed skin color, increase in body temperature and restlessness.

3. Infants age 12 months or younger who are sleeping in a position other than on their back.

a. If the infant's Individual Infant Sleeping Plan [LIC 9227 (6/18)] does not have Section C completed, staff shall return them to their back for sleeping.

(C) If the staff person observes any of the indicators in subsections (B) 1. or 2. the procedures outlined in Section 101226 shall be followed.

Infant Care Activities

We agree with *Caring for Our Children's* definition of a safe sleep environment -- "a safety-approved crib, firm mattress, firmly fitted sheet, and the infant placed on their back at all times, in comfortable, safe garments, but nothing else." Too often infants are left to sleep in car seats and other furniture or equipment that is not a safety-approved crib. We recommend strengthening the proposed 101430(a)(3)(E) as follows:

(E) ***Infants shall only sleep in approved sleeping equipment as defined in section 101439.1****, If an infant fall asleep before being placed in a crib the licensee shall* ***immediately*** *move the infant to a crib ~~as soon as possible.~~*

Nationally, SIDS deaths have decreased significantly in the last three decades thanks to changes in practice, training, and regulation. ECEC fully supports the improvement of the safety and well-being of our children and applauds California for proposing this set

of safe sleep regulations. Please do not hesitate to contact us if you have any questions regarding our recommendations for strengthening these proposed regulations.

Response:

The Department acknowledges your proposed changes regarding staff training and will consider for possible future regulatory revisions. Currently, safe sleep training is included in the Mandated Reporter Training, which is required every two years. Furthermore, the Department appreciates your recommendation to move sleeping infants to an approved crib immediately upon them falling asleep. However, in situations such as an infant falling asleep in a stroller on a walk, they will not be able to be moved to a crib immediately; therefore, the Department chose the wording "as soon as possible" to allow for flexibility in those type of scenarios. Regarding the proposed amendments for eliminating the separate sleeping area, the Department appreciates your comments; however, the proposals are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment. The Department has determined that no changes to the proposed regulations are necessary.

Comment from Susan Wilson of Kinderland Child Development Center

Comment:

"I am writing to address the concern I have about proposed Ordinance #0318-03, Safe Sleep Regulations. While the premise of this ordinance is necessary and timely, parts of the proposed corrections will, I believe, be more harmful than beneficial to the availability and cost of infant care.

The purpose of the ordinance is to lower the risk of SIDS deaths in child care settings by clarifying current regulations and proposing new regulations to better align with national standards for infant sleep care. This argument will address major areas of concern that will impact all Child Care Centers (CCCs) affected by the passing of this ordinance: cost, availability of infant spots, and discrimination in proposed expectations between CCCs and Family Child Care Homes (FCCHs).

COST

Infant child care in California is already among the most expensive in the United States. 'California ranks as the sixth least affordable state for infant and toddler child care and the 16th least affordable for 4-year-old care.... The average cost of infant care at child care centers in California is $12,068 annually, according to the report. By comparison, annual tuition and fees are about $12,912 at University of California campuses...' (EdSource, Lillian Mongeu, November 5, 2013). I would like to point out that this article was written in 2013 when minimum wage was still $8.00 per hour. At $15.00 per hour, these infant care costs will be nearly double.

On page 3 of the 'Notice of Proposed Changes in Regulations of the CDDS' the cost estimates to Federal, State, and Local agencies are all listed as 'None'. The reason given: "This determination was made based on the proposed regulatory action, which was designed to impact only the licensees that make the business decision to serve infants who are the most fragile clients served. There is no requirement for licensees to serve infants and the number of infants served, if any, is at the licensees' discretion".

Kinderland Child Development Center is open 12 hours a day, 6:30 a.m. - 6:30 p.m.. The new regulation will require an additional staff person for all those 12 hours just in case two infants are in care at 6:30 a.m. or until 6:30 p.m. and just in case one of them falls asleep. The cost to Kinderland will be: 12 hours per day x $20 per hour ($15 minimum wage + all employee insurance/payroll taxes) x an average of 21 days per month x 12 months per year = $60,480. The proposal allows for no additional reimbursements through Alternative Payment Programs, so the $60,480 wage for an additional employee will be borne 100% by families. For every two centers in California, an additional $100,000+ will be spent on infant care, potentially costing CA families millions of dollars a year. A substantial co-payment will be required by all subsidized families, those least able to afford it. At $11.00 per hour, my current posted rate is $1265 for full time infant care. In addition to raising all child care rates exponentially to accommodate the annual minimum wage increases, adding an additional sleep room staff member, at approximately $500 per month per infant, would create an almost insurmountable financial burden on centers and families. The final statement on page 3, 'Therefore, the proposed changes have no adverse impact on the businesses' could not be more untrue. Whether a business chooses to end infant care or raise prices, the change will have an adverse impact.

As is implied by the CDSS $0 cost estimate, businesses will have two choices: significantly raise tuition or stop providing infant care. I will next address the severe potential implications of the decision to eliminate infant care next.

AVAILABILITY OF INFANT SPOTS

I researched a number of articles across the state of California, and the general situation seems to be that in California as a whole, there are only spots available for 25% of infants. (1. Report: Parents Struggle with Cost, Shortage of Early Care and Education Opportunities, https://www.first5la.org: 2. Mountain Democrat, Infant and toddler caregiver shortage in El Dorado County by Choice for Children: 3. Press Democrat, 'Families face shortage of child care options in Sonoma County', by Jamie Hansen, July 21, 2015) 'Alyssa Johnson of Oakdale would love to get subsidized care for her 6-month-old in day care but so far she hasn't found a spot. While she meets the income qualifications for subsidies, she has been on a waiting list for a couple of months.' (California Health Report, http://www/calhealthreport.org). This same report goes on to say, 'The Children Now report found that California's day cares have the capacity to only take 25 percent of the state's children who are 2 and younger. The number of spots available drops even lower when you take into account day cares that

are willing to accept subsidies.' And, 'Many day-care providers don't want to accept children 2 and younger for financial reasons, Shaw said (Pamm Shaw, executive director Central Bay Area YMCA). They can earn more money taking care of children who are 3 or 4 because of the lower staffing ratio requirement...'.

I remember many speeches during the 2016 campaign season talking about increasing the availability and affordability of quality child care slots. The Adverse Economic Impact on Business Statement (pg 3 of Proposed Regulations) implies the choice to incur a higher unsubsidized cost or stop providing badly needed infant care. Does CDSS really want to send the message to Child Care Centers to stop providing infant care? Kinderland is licensed to accept 36 infants. We are one of the largest Infant Centers in Redding, and closing my Infant Center is a possibility I am considering. Redding has already suffered loss of infant care availability due to centers eliminating infant spots and the recent fire, and the potential loss of more spots for any reason would be devastating.

CHILD CARE CENTERS (CCC) VS FAM/LY CHILD CARE HOMES (FCCH)

I attempted, without success, to find information on the statement that was quoted as fact, but with no corresponding citation, on page 2 of the Notice of Proposed Changes in Regulations, 'In 2017, there were 13 sleep related infant deaths in child care.' Was this nationally or in the state of California? What types of child care were taken into consideration? I did find two different articles with much more detailed information that was very interesting. (1. Pediatrics 106 (2pt 1):295-300 Sudden Infant Death Syndrome in Child Care Settings by Rachel Moon, University of Virginia, Sarah J M Shaefer of John Hopkins University, and Krishan Mohan Patel of Central University of Punjab and 2. National SIDS/Infant Death Resource Center Sudden Infant Death Syndrome (SIDS) Resources for Childcare Providers, Moon RY, Sprague BM, and Patel KM; http://pediatrics.aappublications.org.) Both studies contained the percentage found on pages 3 & 21 of the CDSS Initial Statement of Reasons document in which an article published in the American Academy of Pediatrics called 'Sudden Infant Death Syndrome in Child Care Settings' was quoted - 20% of all SIDS deaths occur in child care settings. When I looked up the article quoted by CDSS, I found it was the same article I had read in the above citation by Moon, Shaefer, and Patel.

The blanket statement of 20% of all SIDS deaths occur in child care settings, while concerning, does not tell the whole story. 1,916 SIDS cases were analyzed for that study, and 20.4% of the deaths did occur in child care settings. That percentage is further broken down on both pages 296 and 298 of that same article. Of that 20.4%: 1.3% occurred with a nanny, 4.3% occurred in a relative's home, 12.1% occurred in a FCCH, and 2.6% occurred in a CCC. Of the deaths that occurred, 'approximately one-half of the infants who died of SIDS in both settings (child care and home) were found prone.' (Moon, Sprague, Patel, http://pediatrics.aappublications.org). The same the CDSS quoted article states, 'It is concerning that 60% of the child care deaths occurred in family child care settings; family child care homes accounted for 12.2% of all SIDS deaths as opposed to 2.6% occurring in child care centers. According to US Census

Bureau data, approximately one half of infants in organized child care are in family child care homes, with the other half in child care centers, so one would expect similar numbers of SIDS deaths.' According to the numbers quoted above, a CCC is currently the second safest setting for an infant, placing close behind care by a nanny. I would speculate that there are far fewer infants in nanny care than center care which would make center care the safest environment for an infant as related to SIDS deaths.

SIDS deaths occur at five times the rate in a FCCH over a CCC! The proposed changes of ORD #0318-03 to the current regulations do not address this fact! This proposed change would require in a CCC, 101429(a)2: 'A staff person shall be in the designated sleeping area, visually observing and able to hear the infants at all times'. But, in a FCCH, the new ordinance would only put in place 102425(i): 'The licensee shall supervise infants while they are sleeping and adhere to the following requirements: (a) The licensee shall physically check on the infant every 15 minutes'. Under this proposed regulation, an FCCH provider will be required, once every 15 minutes, to leave all awake children in their care to go check on a sleeping infant in another room in the house. If the provider spends only 3 minutes every 15 minutes accomplishing this, that is 12 minutes per hour which is 20% of the day. The proposed ordinance, as written, may or may not reduce SIDS deaths in FCCHs, but it will definitely decrease direct supervision of all the other children.

This difference in proposed expectations between CCCs and FCCHs is discriminatory. It will significantly raise the cost of care at centers while allowing in-home costs to remain unchanged. If checking on sleeping children every 15 minutes is considered a sufficient fix for in-home, it must be considered as a sufficient fix for a center. The majority of centers, including Kinderland, have a sleep room as part of their infant room anyway, so a caregiver would only need to move throughout the sleep room formally monitoring infants every 15 minutes, which would not leave any other children unsupervised for any length of time. In addition to a formal check every 15 minutes, all children in a CCC sleep room with the current half wall are able to be monitored by sight and sound at all times without a full-time teacher in the sleep room.

CARING FOR OUR CHILDREN, 3RD EDITION , CHAPTER 3, STANDARDS 3. 1. 4.1-4

The National Recommendation standards in this CFOC, 3rd Ed. research are quoted numerous times throughout the COSS document 'Initial Statement of Reasons'. But, as in the above COSS quoted statement from Sudden Infant Death Syndrome in Child Care Settings, the whole story is not told. 'Most sleep-related deaths in child care facilities occur in the first day or first week that an infant starts attending a child care program. Many of these deaths appear to be associated with prone positioning ...' (Caring for Our Children, 3rd Edition, Chapter 3: National Recommendation standard 3.1.4.1) If most SIDS deaths occur in the first day or week, a full-time observer in a CCC sleep room is an unnecessary expense. Also stated in Caring/or Our Children (Caring for Our Children, 3rd Edition, Chapter 3: National Recommendation standards), 'Although the cause of many sudden infant deaths may not be known, researchers

believe that some infants develop in a manner that makes it challenging for them to be aroused or to breathe when they experience a life-threatening challenge during sleep.' No one knows what causes SIDS. Without being insensitive, would the 1.3% (taking away 1.3% from the 2.6% quoted above that died in CCCs because of being placed in a prone position) of infants that died in a CCC have passed anyway, but at home, because of a medical development that predisposed the infant to SIDS? I have seen no empirical evidence that SIDS deaths in child care settings are because the child is in care. That statement continues directly on to say, 'Although some state regulations require that caregivers/teachers "check on" sleeping infants every ten, fifteen, or thirty minutes, an infant can suffocate or die in only a few minutes...' Checking on an infant every 15 minutes, the proposed fix for an FCCH, would likely not address the 60% of child care deaths that occur in homes. And finally, that quote finishes with, 'This is also why Caring for Our Children describes a safe sleep environment as one that includes a safety-approved crib, firm mattress, firmly fitted sheet, and the infant placed on their back at all times, in comfortable, safe garments, but nothing else, not even a blanket.' This recommendation does not include a staff member being present in a sleep room at all times. Neither does 3.1.4.l(k): Infants should be directly observed by sight and sound at all times, including when they are going to sleep, are sleeping, or are in the process of waking up." The current half-wall accomplishes this, especially if there were to be an added requirement to chart vital statistics during the required 15 minute checks.

One more fact to consider about Caring for Our Children, 3rd Edition: This document was published in 2011, seven years ago. Are the facts being quoted to make new regulations still relevant? Have SIDS deaths already been reduced in child care by 50% because of increased awareness of safe sleep issues, including prone sleep? Putting expensive regulations into place based on years-old information may not be the most prudent decision.

OTHER CONCERNS

As stated earlier, no medical professional knows what causes SIDS. Child Care providers are not trained medical professionals. CDSS and other government regulatory agencies can put numerous procedures into place, but none of them will eliminate SIDS altogether. If people knew how to do that, it would be done already. With new regulations in place, what will happen to child care providers when, not if, a SIDS death happens while an infant is in care? Will we be held accountable and liable? Holding providers accountable for knowledge that even doctors don't have would be unrealistic and unfair. Are providers going to start panicking and overusing medical services such as ambulances? If so, will that cause another financial burden to families? I don't know either, but that concern certainly warrants a discussion.

APPROPRIATE ALTERNATIVES

Page 4 of the 'Notice of Proposed Changes in Regulations' notes, '...no reasonable alternative it considered or that has other wise been identified and brought to the

attention of the agency would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons ...' I believe I have submitted several burdensome and expensive outcomes that would affect private persons, both CCCs and citizens who will incur significant increases to infant tuition. The potential loss of infant care spots would significantly burden the working parent population.

The proposed ordinance covers many of the safe sleep practiced discussed in Caring/or Our Children (Caring/or Our Children, 3rd Edition, Chapter 3: National Recommendation standard 3.1.4.1) which include: watching for signs of distress in sleeping infants and what those signs are; sleeping in a supine position until developmentally able to roll over; swaddling; firm mattresses with tight bedding; removing all loose items from cribs including bumper pads and blankets; moving children who arrive in a car seat or who falls asleep in a swing immediately to a crib; and supervising by sight and sound at all times. Requiring all of those to be implemented would potentially reduce SIDS in child care settings. The most critical practice not currently being followed at all times, according to CFOC, is placing children to sleep on their backs. Sleeping in a prone position must be emphasized and taught thoroughly to all child care providers. This one practice alone will reduce SIDS deaths by 50%.

I also propose requiring a sleep chart that must be filled out every 15 minutes noting each area of concern: labored breathing, signs of overheating, and sleeping in a back position. This would be a positive addition to the ordinance since there is no included method of monitoring or enforcing a 15 minute check of sleeping children in the FCCHs, and would also effectively add a 15 minute formal check requirement to CCCs.

A higher level of required training for providers and a system of enforcing safe sleep practices will likely result in a drop in SIDS deaths in child care settings.

SUMMARY

Child Care Centers are unfairly targeted by proposed Ordinance #0318-03 with the requirement to have a staff member placed permanently and full-time in a sleep room. As discussed in this argument, CCCs are currently much safer environments than care provided by a relative and five times safer than care provided by Family Child Care Home Providers. Yet, the ordinance adds tens of thousands of dollars annually to a CCC budget. The 15 minute check on sleeping children being proposed for FCCHs MUST be the regulation proposed for CCCs as well in order to avoid discrimination. There is no suggested or empirical evidence presented that a staff member dedicated solely to a sleep room in a CCC would eliminate even one SIDS death. CDSS should consider enforcing the above mentioned safe sleep practices in all child care settings over which they have jurisdiction. This would potentially achieve all of their goals without creating higher tuitions for all families, including low-income families, and without potentially eliminating infant spots in a state where there is already a shortage."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Cost and Supervision
In response to your comments regarding cost and the need to hire an additional staff person for supervision, the Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

15-Minute Checks
The Department amended Sections 101429(a)(B) and 102425(i)(2)(D) by adding the requirement that staff of both centers and homes physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s). Providers will be observing the infants for sleep position and signs of distress which include labored breathing, flushed skin color, increase in body temperature, and restlessness.

Emergency Response
If any of the concerning signs noted above are observed, the licensee shall immediately seek medical attention if necessary and notify the infant's representative. The intent of proposed regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary.

The additional statements are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment.

Comment from Jodie Keller of e center:

Comment:

"In response to the Public Comment opportunity for proposed regulatory action involving Safe Sleep Regulations E Center would like to share concerns regarding some of the proposed language.

Sections 101429(a)(l) and 1 01429(a)(2)(A)

The requirement to have a staff person in the napping area when the napping area is part of the regular classroom and when that person cannot be used to support supervision of a child that is awake changes the current 1:4 adult/child ratio. Our classrooms have a designated napping area that is sectioned off from the activity area utilizing room dividers that provide the ability to supervise napping babies that are easily

accessible. The activity area is often just a few feet from the napping area. The dividers are open allowing for visual supervision of a napping infant.

Please note; I understand the requirement to have a staff member in a napping room that is separate from the classroom but when the napping area is within the classroom, this regulation would have a substantial financial impact as it would require that we hire an additional staff member solely for the napping area as infants nap on demand and are not on a napping schedule.

For example, I have an infant room with two infants that arrive for care from 5:30 -7:00 am; it is the normal nap time for one infant but not for the other. This regulation would require that I have a teacher in the napping area with one infant and one teacher in the activity area separated by a simple wall divider. This in essence does change the adult/child ratio dependent upon when infants are napping. Although I understand and support the requirement for constant visual supervision of napping infants, it is possible to supervise a napping infant while engaging in a quiet activity with a second infant. Current regulations do not allow us to take the awake infant into the napping area for quiet play which then requires that we have a 1:1adult/child ratio in this example which is very real in our program.

E center provides care for up to 112 infants in 17 infant classrooms in 8 counties of Northern California. This change in regulation would require that we hire an additional 17 staff members; this would become a substantial financial hardship. We currently staff with two full time teachers and a site aide to support in those classrooms but the site aide also provides support to our toddler classrooms and therefore is not part of regular operational ratios.

Sections 101430(a)(3)(C)

We recognize the concern with adults possibly not swaddling in the correct manner which could cause harm to an infant. For this reason, we would simply ask that you engage in a public service message about the possible harms of swaddling so that it becomes a public message and not a message solely coming from the care providers. Many parents believe in swaddling as do hospital nurseries. For some babies, proper swaddling is necessary for them to get restful sleep. A public message about the possible harm that can be done would be appreciated by those of us in licensed childcare if this regulation is to be approved. Our preference would be that guidance be given to allow for partial swaddling (arms free) so that the infant can still feel the comfort of a partial swaddle.

Sections 101439.l(f)(l) through (3)

The requirement to have cribs free from all loose articles and soft objects is appreciated with the exception of no longer allowing breathable blankets. It is our request that breathable blankets continue to be allowed in cribs for napping infants as opposed to requiring caregivers to change a napping baby from his blanket into a "sleeper" upon

arrival to a licensed child care program to allow for his/her nap to continue. Regulations should continue to regulate the types of blankets acceptable but we are opposed to removing blankets completely for napping infants.

Thank you for allowing the opportunity for the public to share their voice regarding these proposed regulatory changes. If you have any questions or request further clarification about the concerns described in this letter, please do not hesitate to contact me at (530) 741-2995 or email me at jkeller@ecenter.org.

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Supervision
Regarding supervision, the Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Swaddling
According to Caring for our Children (CFOC) National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care. The CFOC resource may be used to inform families of the risks of swaddling.

Blankets
Regarding your request for breathable blankets, the intent of regulation section 101439.1(f) is to reduce the risk of SIDS and suffocation and this regulation will not be modified. CFOC standards are consistent with CFOC's conclusion and the California SIDS Program and the American Academy of Pediatrics support it. Safe sleep best practices such as keeping the room at a temperature that is comfortable for adults to wear a t-shirt and having infants wear a onesie or sleep sack pajamas aid in keeping the infant comfortable, while providing a safe sleep environment.

The Department has reviewed these comments and determined that no further amendments are required.

Comment from Rani Marriott

Comment:

"Safety is always my #1 priority throughout my day caring for children, but the new proposed regulations are horribly challenging and will negatively impact child care providers and parents.

Most toddlers are moved to a mat or cot at 12-14 months. This proposal states that they have to remain in a crib (porta crib) until age 2 which is unnecessary.

The biggest issue is that the licensee must be the one checking on the sleeping 'infants'. Many providers use their approved substitutes/helpers during nap time for their own personal appointments. How is a home provider that works 50-60 hours a week supposed to maintain their medical needs (or balance a family life of any sort) if they can never leave because a child may fall asleep? That is absurd.

As caregivers we sacrifice so much to care for children, but we have to take care of ourselves too. Child care is a HARD job and we must be able to take needed breaks, appointments, etc. The burn out rate, medical issues, and closures will escalate.

The outcome of this regulation will be daycares opting to only take ages 2+, and/or more closed days where parents are struggling to find backup child care coverage. Both of these negatively affect child care providers and parents.

Safe sleep IS important - but this is not a positive plan. Please consider making changes. Maybe licensee and approved helpers, and maybe 12 months and under instead of 24 months and under."

Response:

The Department appreciates your comments on cribs, along with your comment regarding a qualified assistant being included in the proposed regulations. Though you can use an Assistant Provider to uphold the regulations to care for the children, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations. Therefore, the Department will not be modifying the proposed regulations.

To clarify proposed regulation Section 102425(a), it reads, "There shall be one crib or play yard for each infant who is unable to climb out of the crib or play yard." If an infant has the ability to climb out of the crib or play yard, a mat or cot may be used for sleep. The proposed regulations are consistent with CFOC National Recommendations. Therefore, the Department has considered your comments and determined that no further amendment is required.

Comment from Trudy J. Oliver

Comment:

"In response to the proposed regulation changes for licensed homes and centers, I appreciate the opportunity to provide comments as an advocate for children, families, and staff. I am providing testimony as an administrator of a NAEYC accredited center in Riverside County for 20+ years, grandparent, Local Planning Council member, and adjunct college instructor.

Undeniably, safe sleep practices are important for all situations in an infant's life, and in the best interests of these vulnerable young ones. I support safe sleep practices and I applaud the efforts to clarify existing infant center regulations, and address holes and problematic areas. However, I perceive inconsistencies, inequity, and difficulties with portions of the proposed regulations for your consideration.

Equal Protection

These youngest ones deserve equal protection in all care settings. As proposed, infants in Family Child Care Homes (FCCH) may be placed to sleep in a play yard in a separate bedroom, with checking on them every 15 minutes (an improvement), yet without direct and constant supervision. However, Centers would be required to have someone directly observing infants the entire time of sleeping.

Though family child care providers may have early childhood college units and training, they are not required to do so for a license. A license is only required when caring for more than one's own children and another family, which allows for unlicensed care without any monitoring or oversight. A small FCCH can have 8, of which two can be infants, in addition to one's own children. It is proposed for FCCH to allow use of play yards for sleeping.

Teachers at licensed centers (CC) are required to have early childhood units from accredited college, including an infant/toddler class, and under the supervision of one fully qualified teacher of 12+ units, with a one-to-four ratio. As proposed, play yards would not be approved for use by centers.

Questions: Generally centers provide more qualified and visible space, yet more restrictive regulations are proposed, why? Why the difference in play yard use for sleeping? Would that staff person be required to have early childhood units in CC? clarify if a person in a nap room be counted in overall ratio? (logically that person could not be interacting with awake children in the activity areas)

Recommendation: Rewrite Section 101429(a)(2) for BOTH FCCH and CC to read: "A staff person shall be able to visually observe and be able to hear infants at all times, and shall physically check on sleeping infants every 15 minutes."

Recommendation: Rewrite Section 101439.1(c) to read: "floor mats or cots shall be provided for each infant who is over 12 months of age who is walking well enough to use a floor mat or cot."

Supervision

There are best practices and recommendations of the American Academy of Pediatrics (AAP) in the Caring for Our Children book, ITERS book (Infant/Toddler Environmental Rating Scale), and NAEYC (National Association for the Education of Young Children) that may be implemented by quality centers and homes, though these are not required by Licensing regulations at this time.

Currently, the minimum requirement of Title 22 for Centers may utilize a 4-foot partition or clear walls to visually supervise sleeping infants, and to visually supervise infants/toddlers at all times.

At the center where I am director, we have cribs on 3 sides of the crib area, meaning if a teacher turns to meet the needs of one infant, or lays one down, or moves to a rocking chair, or hands an awake infant to a play room teacher, s/he has taken her constant, direct visual supervision off the other cribs which could result in a Type A citation of lack of supervision (and has occurred.) This is unreasonable.

Overnight care could be significantly impacted. Already there are sparse child care options for those in law enforcement or the medical field who work the night shifts. Same as previous Recommendation: Rewrite Section 101429(a)(2) for BOTH FCCH and CC to read: "A staff person shall be able to visually observe and be able to hear infants at all times, and shall physically check on sleeping infants every 15 minutes."

Flipping

In our center’s experience and knowledge of other programs, infants frequently have difficulty sleeping in secondary settings. While not a safe sleep practice, many families confide they have "family beds" or co-sleep with their babies, which means they are not accustomed to being in a crib by him/herself without a blanket, or other item. Many other infants are breast-fed, so while they tolerate a bottle with breast milk, their preference is preparing for sleep by nursing.

Combined, infants may not experience a peaceful and comfortable sleep process, even with space specifically for napping. While extended sleep in a swing or bouncer seat is understood, and initial placing on their backs is safest, there have been incidents when a caregiver was cited for holding a sleeping infant too long, which is also unreasonable for an infant needing the comfort of personal contact. My own grandson rarely slept while in care until he was 12 months of age when he could be placed on his tummy. The proposed flipping of sleeping infants who turned onto their tummies would disturb their precious sleep. Having a form to be signed is workable, though could encourage falsification for convenience. As SIDS occurs mostly in infants under 6 months of age, it

would be unfortunate if CC or FCCH chose not to provide care until child could flip back and forth on his/her own or after 6 months of age.

Questions: is there a "simple" sensor or alert that could be placed in each crib to monitor breathing or movement? The 13 cited SIDS deaths in child care are for California? Though some sources that "were relied upon" were provided, what is the source for review for 2017? How many were in family child care homes, how many in exempt or unlicensed homes, and how many in centers?

Recommendations: Utilizing a "sleeping plan" as proposed, and monitor while sleeping, but not require flipping if infant turns to tummy on his/her own.

Financial Impact

As existing regulations do allow a 4-foot partition or clear wall to separate the sleep area from activity space Section 101438.3(b), if a center (CC) currently uses half walls or clear plexiglass dividers to supervise sleeping infants, in conjunction with supervising and perhaps with supplemental electronic devices, there WOULD be financial impact, contrary to the provided Initial Statement of Reasons.

The proposed regulation requiring one person solely to the nap room has the potential to add personnel costs of: $12.00 (new) 2019 minimum wage x 11 hours of operation x 5+ days per week x 52 weeks of operation = $34,320 Plus taxes, insurance, benefits, etc. (will require two people as one cannot work 11 hours daily).

If a separate nap room is required rather than visual supervision and periodic checking or in class play yard, a second person at opening and closing would be needed even if 2-4 infants, as one teacher could not be in both places. (The Caring for our Children book does not recommend a separate nap room.) There is no consistency when infants will sleep, so a person must be available at all times. While we generally do this at our center by choice, others don't, usually based on the cost factor.

Based on that information, the impact on families at my center could potentially be an additional $66 per week for each of the 10 families to cover the minimum cost. Especially non-profit, small businesses such as where I work, are still acclimating to the progressive minimum wage increases, so this impending increase by necessity would be passed on to parents/families.

The consequential increase in costs could result in: parents dropping, parents finding unlicensed care or under-qualified care, or centers closing their infant programs. The trickle-down impact on community business would be wide-spread and devastating with parents who could not afford infant care; hence impacting all of California's work force – it could create jobs in centers for a watcher/flipper (who goes to college for that job?) but eliminate higher paying jobs of parents because they have no safe, clean and quality care for their infant while they work.

Recommendation: similar to previous section, require to visually observe and hear, with checking every 15 minutes to provide realistic flexibility for operational needs of programs and "affordability" for families. (Would not require person to solely staff the nap room.)

Options for Families

Infant care is already an investment that many families cannot afford without assistance, especially if there are multiple children in the family. Additionally, there already is a shortage of infant care programs throughout the State, including Riverside County. Surely the intent is not to force families into unlicensed care, especially as the State budget is adding monies and incentives to expand infant care. Rather, the State and child care advocates such as myself, local colleges, the Consortium for Early Learning Services, the Local Planning Council, and First 5 California / Riverside actively support efforts for infant FCCH or CC programs with the higher tier 4 or 5 Quality Start rating, with limited choices in Riverside County.

Recommendation: consult and align with State and First 5 actions to support quality infant programs

Public notification

Based on my understanding, public notification according to government codes has not been met. As the director of a licensed center in California, I have not been directly notified of these proposed regulations that will directly impact our Center/small, non-profit business, as no other director with whom I have spoken. The safe sleep concepts paper in the Summer 2018 quarterly updates does provide access to proposed content – however, I contend this does not suffice as notification to stakeholders and providers, nor opportunity to provide testimony or input. Even when I inquired of our Licensing Analyst at their unannounced visit this summer, that person had no knowledge of the proposals.

Question: Who are the stakeholders with whom CDSS "has worked closely?" How were providers notified to provide feedback? / The September 19th meeting was specifically stated for testimony only, not debate (when was opportunity given for "debate" and discussion?)

Recommendations: to ensure provider input, send a mass list serve for emailing licensed providers, or at least a "special" announcement not grouped with other content (knowing that mailing will be expensive but most effective.) Consumer (parent) notification or survey should be considered as well. Consult policies of other states already implementing safe sleep practices, such as Michigan and Washington.
Thank you for your review and consideration of the testimony provided herein. Safe sleep practices, definitely – balanced with feasibility and achievability without undue hardship on providers, absolutely. I would be happy to provide additional information if

desired, and would appreciate more research, provider/field discussion, and feedback prior to approving and implementing changes in regulations, thank you.

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Infant Supervision
The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls or half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

15 Minute Checks
The Department has also amended regulations for both center and home facilities by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Cribs and cots:

To clarify, section 101430(3)(A) requires caregivers to place infants aged 12 months or younger on their back to sleep to reduce the risk of suffocation or SIDS. According to National Institute of Child Health and Human Development and the American Academy of Pediatrics, infants sleeping on their stomach or side have the highest risk for SIDS, while those who sleep on their backs have the lowest risk. This regulation is consistent with national standards on safe sleep for infants in child care settings to reduce the risk of SIDS.

Play Yards in FCCH
Regarding your questions as to why play yards are used in homes and not centers, play yards are permitted as a more cost-efficient option in homes, which typically care for fewer infants than a center environment.

The additional statements are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment.

Comment from Gina Marie Martinez

Comment**:**

"I personally think a baby monitor when positioned right in front of the child where you can see the chest/ stomach move up and down is suffice to ensure infant is breathing properly. It is extremely difficult or impossible if a small family child care provider has for example 1 infant and 3 preschoolers with completely different sleep schedules to

monitor a sleeping infant physically in a separate room and the other 3 preschoolers who are awake.

Also, almost majority of infants are not comfortable sleeping on a firm flat surface. Alternatives such as a Rock n Play sleeper or swing helps a lot especially for those babies suffering from acid reflux or who just cannot calm down when placed on a crib."

Response:

The Department has reviewed the comments on the use of baby monitors in lieu of performing 15-minute checks and infant sleeping equipment. The proposed regulations are consistent with Caring for Our Children National Recommendations. A crib or play yard is the safest place for an infant to sleep according to the American Academy of Pediatrics. Therefore, the Department has considered your comments and determined that no further amendment is required.

Comment from Abbey Alkon of UCSF School of Nursing

Comment:

"As a Professor at the UCSF School of Nursing and child care health clinician and researcher, I have been familiar with the CA State Child Care Regulations and research on safe sleep practices for over 20 years. I participated in an intervention study with Dr. Rachel Moon in southern California to increase child care providers awareness of safe sleep practices and I was the Director of the CA SIDS Program for 2 years. In addition, I served on the American Academy of Pediatrics' (AAP) Council on Early Childhood for 5 years and presently serve on the National Health and Safety Performance Standards Caring for Our Children's executive committee.

The prevalence of SIDS deaths in child care settings is about 20% of all SIDS deaths in the United States. The research on safe sleep consistently shows that infants put to sleep on their backs have a reduced incidence of SIDS and SUID. The AAP's Bright Futures has included back to sleep as a best practice for primary care pediatric providers since 1995.

The new proposed child care regulations for infants' safe sleep will significantly reduce the number of infant deaths in California's licensed child care settings. I support the proposed Safe Sleep Regulations, ORD No. 0318-03.
The new regulations will not put infants or providers at risk nor increase the cost of child care for infants in child care centers or family child care homes."

Response:

The Department appreciates your comments of support.

Comment from Brian Health of Bright Horizons

Comment:

"Bright Horizons operates more than 75 high quality early care and education centers in the State of California, serving over 7500 children and 6000 families each day. Our core focus in caring for young children is to provide a healthy and safe environment supported by stringent policies, procedures and best practices.

Bright Horizons fully supports California incorporating the American Academy of Pediatrics (AAP) safe sleep practices into Title 22 of the California Code Regulations. These practices already are fully incorporated into our comprehensive training and re-training programs on infant sleep and safety policies and procedures. In addition, however, we respectfully recommend the following revisions be made to the child care licensing regulations concerning safe sleep practices in licensed child care centers.

Bright Horizons strongly recommends that the licensing regulations be revised to clarify that an infant shall be considered supervised by a teacher where the infant is sleeping in a crib that is visible and audible to the teacher from any vantage point in the classroom, including where the teacher may be located on the opposite side of the required barrier separating the infant sleep area from the infant indoor activity area. This clarification would be consistent with the regulatory intent of requiring the monitoring of sleeping infants both visually and audibly at all times while simultaneously allowing all teachers in the classroom to be available to address the needs of all infants in both the infant sleep areas and general activity areas.

In addition, Bright Horizons strongly recommends that the regulations be revised to remove the requirement that the infant sleeping area be separated physically from the infant activity space with partial walls or movable barriers. We do not know of any health or safety benefits achieved by physically segregating infant sleep areas from activity areas in classrooms. Rather, these barriers impede the free flow of teacher movement around the classrooms and create challenges in monitoring the care of other infants who are awake. Removing sleeping area barriers would ensure clearer and less obstructed views of all children in the classroom from any vantage point. This change would also eliminate any confusion as to whether the segregated infant sleep area is considered a separate "room" which must meet the staff- infant ratio without consideration of the teachers who are in the general classroom areas."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations. Regarding supervision, the Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all

times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

The additional recommendation is outside of the scope of the noticed hearing, as it does not address the changes made and open for public comment.

Comment from Gayle Clark of Bermuda Dunes Learning Center

Comment:

"I have read the new proposed regulations regarding the change for direct supervision for infants napping at all times in a center base program, and I have a concern about this. I agree that the safety of all infants is important, but I feel this proposed regulation is wrong.

The infant center at our site, which is NAEYC accredited was designed with all walls as windows for visual site at all times, and a changing table is right up against the exterior visual window/wall allowing staff to stand change a diaper, while observing a sleeping infant. We have both audio and a visual monitors hooked up in this room so infants can be seen and heard at all times. We leave the door open if an infant is in there alone. The room was built and licensed approximately ten years-ago, and the analyst that inspected the room was very impressed with it. Since then we added the visual and audio monitors.

The new regulation for family Childcare requiring the caregiver to walk over to where the infant is sleeping every 15 minutes or more is very good in my opinion. I suggest the same regulation for an infant care center; infants in a separate napping room must be visually seen at all times, and a caregiver must check on them every 15 min or more. I am not understanding why there is a need for a caregiver to be in a napping room at all times, especially if the room allows for visual supervision. If it's safe and allowed in a family daycare, why isn't it going to be allowed in a center base program.

If we have 5 infants in our care, and one is asleep in my opinion it would be safer to have two care givers out of the napping room caring for the 4 awake and active infants, than placing one caregiver inside the transparent napping room watching a sleeping child. The sleeping child can visually be seen and heard from everywhere in our infant room.

I am an advocate for children and I believe safety is always the number one priority. I used to teach ECE classes at our community college, I'm a mentor director for the state, and I have operated and directed at our NAEYC accredited site for over 25 years. Safety is and always will be my number one concern for children. However, this new proposed regulation is unnecessary and can cause greater harm. I ask that you please reconsider having someone inside a napping room that has transparent walls. This will financially impact programs as additional staff will be needed, causing many infant

centers to shut down. I understand safety is the concern, but as I've explained an infant program can safely be run if the napping room is designed that an infant can be seen. And if this isn't safe, why is it safe for family day care?"

Response:

The Department appreciates your comment and acknowledges your concern with the proposed regulation. The Department revised the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

The Department has reviewed these comments and determined that no additional amendments are required.

Comment from Sarah Williamson of Miss Sarah's Little Sunshines

Comment:

"I own/operate a small, licensed family child care home. I have read through the new sleep regulations and agree with the majority of it. The one part that I am having trouble agreeing with (but obviously will comply with if these regulations do, in fact, come to be) is that the children must be on the same floor as the provider. I live in a two-story home with a somewhat open floor plan downstairs and no additional office or bedroom downstairs. Currently, I utilize my upstairs bedrooms to let each infant have their own space to sleep - all rooms have monitors (audio/video) and I physically check on the children upstairs frequently during naps. If I were to have to transition them all downstairs, the infants would have to sleep in a common area with toddlers that are playing. I cater to infants and toddlers, and don't see how the infants will be able to get much rest while the toddlers are having a chance to be active, play and learn. No amount of sound machines are going to drown our playing kids. On the flip side, when the toddlers are napping in the afternoon, I have a hard time imagining them staying asleep through babies crying not far from them.

I know my house situation is not like everyone else's, and if I owned a one-story house, there wouldn't even be any cause for concern regarding the new regulations. I'm sure I'm not the only one with this predicament, though. Thank you for letting me voice my concerns."

Response:

The Department appreciates your comment and acknowledges your concern with the proposed regulation. The proposed regulations are consistent with Caring for Our

Children National Recommendations. Therefore, the Department has considered your comments and determined that no amendment is required.

Comment from Doug Moore of UDW

Comment:

"UDW/CCPU, on behalf of family child care providers in 39 counties throughout California, submits the following comments to the California Department of Social Services (DEPARTMENT) on the proposed amendments and adoptions to the California Code of Regulations (CCR), Title 22, Division 12 for Child Care Centers (CCC) and Family Child Care Homes (FCCH) to support safe sleep for infants in child care facilities.

Proposed Regulations Text:

'Amend Section 101239 to read:
(a) through (q) (Continued)
(r) Fixtures, furniture, and equipment that have been banned or recalled by the United States Consumer Product Safety Commission shall not be used or on the facility's premises.
(1) If the United States Consumer Product Safety Commission authorizes a correction to a banned or recalled item, proof of the correction showing it meets the new United States Consumer Product Safety Commission standards shall be maintained at the child care center and shall be available to the licensing agency for review.'

'Amend Section 102417 to read:
(a) through (c) (Continued)
(d) The home shall provide safe toys, play equipment, and materials.
(1) Fixtures, furniture, and equipment that have been banned or recalled by the United States Consumer Product Safety Commission shall not be used for children in care or accessible.
(A) If the United States Consumer Product Safety Commission authorizes a correction to a banned or recalled item, proof of the correction showing it meets the new United States Consumer Product Safety Commission standards shall be maintained at the facility and shall be available to the licensing agency for review.'

UDW/CCPU Comment:

We support prohibiting facilities from using banned or recalled fixtures. However, we request the department provide CCC and FCCH with an updated list of fixtures, furniture, and equipment that have been banned or recalled by the United States Consumer Product Safety Commission and provide notice of any changes. Many child care providers may not have access to the latest information regarding banned or recalled items and would be at risk of a licensing deficiency. Providing a list of banned or recalled products not only ensures that providers can stay in compliance but allows

them to protect the health and safety of the children in their care from potential safe sleep hazards.

Proposed Regulations Section 102425 on Infant Safe Sleep and Section 102426 on Overnight Care UDW/CCPU Comment:

Both Section 102425 and Section 102426 requires "licensees" in meeting these requirements. We believe the term "licensees" should be changed to the term "provider" as defined in Section 102352 which states that "provider" means anyone providing care to children as authorized by these regulations and includes the licensee, assistant provider, or substitute adult. However, the term "licensee" should be kept for the completion and maintenance of the Individual Infant Sleeping Plan [LIC 9227 (6/18)].

Proposed Regulations Text:

'Amend Section 102352 to read:
(i) (1) "Infant" means a child who has not yet reached his or her second birthday under two years of age.'

UDW/CCPU Comment:

Currently, there is a discrepancy regarding the definition of 'infant'. In the new sleep regulations, 'infant' is defined as 'a child under two years of age'. However, the individual Infant Sleeping Plan [LIC 9227 (6/18)] is required to be completed for each infant 12 months of age and younger. We need clarification and believe the best way to address this discrepancy is to allow for two separate age group definitions for children under two years of age. We request that in Section 102352 the term 'infant' be defined as a child under 12 months of age and the term 'toddler' to be added to define a child under two years of age but over 12 months of age."

Response:

The Department acknowledges your comments and concerns regarding the proposed regulations.

Redefine Ages
The Department has changed Section 102352(i) to read, "'Infant' means a child under two years of age" and the Department will not be making any further amendments to this section at this time.

Licensee Vs. Provider
Regarding the suggestion to change the word "Licensee" to "Provider" in the proposed regulations, while one may use an Assistant Provider to uphold the regulations to care for the children, ultimately, it is the licensee’s responsibility to ensure compliance with all

applicable laws and regulations. Therefore, the Department will not be modifying the proposed regulations.

Recalled Items
Regarding the recommendation that Department provide a list of the banned or recalled products to licensees, the Department encourages licensees to consult the CPSC website as it is the most up to date and accurate source for recalled items.

The Department has considered your comments and determined that no amendments are required.

Comment from Heather Brown

Comment:

"I am a licensed small family child care provider and have been for almost 3 years now. Before becoming licensed, I provided care for children of my friends on an as needed basis. I only provide care for infants and toddlers. I also have three children of my own ages 7,9 &10. That being said, the past almost 11 years of my live have revolved around caring for infants.

I have two big concerns with the proposed new sleep regulations. The first being that infants will no longer be able to be swaddled. Every baby is born with some degree of a startle reflex aka Moro Reflex. My own 3 children were born with very strong Moro reflexes! This caused them to jerk their arms and or legs, and arch their backs suddenly when they heard something. When trying to sleep, this sudden movement then caused them to wake themselves up each and every time UNLESS they were swaddled in a blanket. Many of the parents of children that I have cared for have also swaddled their children at home and these babies are used to this. No longer allowing child care providers to swaddle will have a hugely negative impact on these babies! Not only will they lose the sense of comfort and security that swaddling brings during the time that they are already away from home, but they will likely not be able to sleep as much as their bodies need.

I would like to propose that instead of no longer allowing swaddling altogether, this be amended to be allowed up until 3 months of age. By 4 months, most babies have lost the Moro reflex or it is not as strong as it once was.

Another big concern that I have is regarding that the provider must be on the same floor as children under two years of age when they are sleeping. All three of my daycare babies currently sleep in cribs that are in separate rooms in my 2 story home. Being around multiple children at the same time, I quickly learned that they do not sleep well in the same room together!!! If we all have to be on the same floor while anyone is sleeping, that means that I will only have 1 bedroom for all of the babies to sleep in. This also means that the babies and toddlers that are not napping, are going to end up

waking the sleeping babies because they are naturally loud when playing, suddenly cry if they get hungry or a toy is taken away by another child, etc.

Babies all have different sleep schedules while they are at home. When they come to me in the morning, some have already been awake for a few hours, while others were woken up right before leaving their home. That means that even if I wanted to, they all have different sleeping needs and are not always ready to go to sleep at the same time! So I will have one baby asleep in the bedroom and then have to bring in another baby who is tired, but still awake and possibly babbling and hope that the sleeping baby is not awoken by the baby who is being put into the crib for a nap. This has not worked in the past and is the reason behind me creating their own sleeping spaces. Not only do they fall asleep at different times, but they also don't sleep for the exact same length of time. This just creates a cycle of one baby waking another baby up all the time and no one getting enough sleep!

Being a licensed family child care provider is far from easy, but it is what I feel I am meant to do. These new proposed regulations that I have addressed are causing a lot of stress for the child care provider community! Many providers have already stated that they will no longer care for infants if these regulations become permanent. I do not want to become a baby warehouse and force children to all sleep on top of each other. Having separate rooms and full-sized cribs for each baby has been something that all of the parents I have interviewed have liked and have seen as a selling point. They each have their own bedrooms and cribs at home so of course they would want that for their child when being away from home as well!"

Response:

The Department appreciates your comments and acknowledges your concerns with the proposed regulations.

Swaddling
Regarding swaddling, regulation sections 101430(a)(3)(C) (CCC) and 102425(f) (FCCH) are necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk of SIDS. According to Caring for our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care.

Same Floor
Regarding infants sleeping on the same floor as the licensee, the proposed regulations are consistent with CFOC National Recommendations. The intent of section 102425(i)(6) is not to deny an infant its sleep, but to ensure licensees can quickly

assess signs of an infant in distress. By having the infant sleep on the same floor as the licensee, the licensee can hear the infant and act accordingly.

The Department has considered your comments and determined that no amendment is required.

Comment from Cindy Roberts

Comment:

"One of my concerns is even though the overwhelming number of infant SIDS deaths occur in Family Child Care, the more stringent requirements are being proposed for Centers. For instance, a sleeping infant in an FCCH can be in a separate room, with visual access, in a crib OR a 'play yard'. Centers will be required to have a separate person in the separately designated sleep area. Although the regulations do not say that this person is not included in the staffing ratio, they will be physically separated from other infants and staff by the currently required 4 foot partitions, or even in another separate sleep room. The Safe Sleep standards in 'Caring for Our Children', which DEPARTMENT extensively quotes, specifically state that the use of separate sleep rooms or areas is not recommended. It may be appropriate to recommend the deletion of Section 101438.3(c)(1), which has required the physically separate sleep area since 1987. This would make the requirement of closer infant sleep supervision easier, simplify emergency evacuation of infants, and further conform the proposed Safe Sleep regulations with the National Standards in 'Caring for Our Children'.

A number of center based infant program operators have told me they can not afford another staff position for sleep supervision area, and some have even indicated they will probably close their infant programs because of additional staffing costs. Will the requirements result in loss of already scarce infant care spaces? It is reasonable and fair for Family Child Care Homes, where most SIDS deaths occur, to have more lax safe sleep standards than Centers? Aren't children entitled to equal protection, regardless of their child care setting? If you choose to submit comments to DEPARTMENT or testify at the hearing, it is better if your comments are directed toward specific regulation numbers and sections, and then to give a recommendation to support, delete, or change the proposed language based on your reasons. It would also be beneficial for groups of infant care programs to submit comments together. Ideally, it would be good to convene regional work groups to review the proposed new regulations and submit recommendations together. However, we have a very short time frame this summer in which to review the proposals, submit comments, and/or schedule an appearance at the only brief public hearing in Sacramento."

Response:

The Department appreciates your comment and acknowledges your concern with the proposed regulation. The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and

will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

The additional recommendation is outside of the scope of the noticed hearing, as it does not address the changes made and open for public comment.

Comment from Stephanie Fitzgerald of Silverman Preschool

Comment:

"Thank you for considering my opinion on the new regulations regarding safe sleep for infants in our child care centers.

Safe sleep is crucial to the health and wellbeing of our most vulnerable students, and as such should be included in state regulations intended to keep infants safe.

My concern is with the line that reads that 'A transparent wall or half wall does not take the place of a staff person in the designated sleeping area with constant visual supervision.'

By definition, supervision is the ability to see and hear the infant. With a half wall or partial transparent partition, you can still achieve supervision. When you eliminate that option, you bring the child care teacher/child ratio down to 1:1. This is because if you have 2 infants, and one falls to sleep, you need a second teacher. Child Care centers are going to stop serving infants. Serving infants is already a financial risk that many centers opt out of taking. This added cost will drive infant care prices up- making an already difficult financial burden IMPOSSIBLE for middle and lower class families, (whom are demographic that needs us the MOST.) It will cause centers to lower the wages of teachers to offset the cost of needing additional staff.

Please consider allowing clear partial partitions and half walls that do not impede sound or sight supervision and keep caring for infants a financially feasible practice."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations. Regarding supervision, the Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

The Department has considered your comments and determined that no further amendments are required.

Comment from Amy Wells of Community Services Bureau

Comment:

"Please see the references to cleaning bedding and mattresses below and clarify the daily/weekly timeframes.

- 101439.1 (b)(6)(B) Crib mattresses shall be wiped with a detergent/disinfectant daily and when soiled or wet
- 101439.1 (e)(1) Bedding shall be changed and sanitized daily, or more often if required
- 102425 (a)(6) Bedding that touches a child's skin should be cleaned weekly

Please clarify the definition of 'infant' as noted in 102352 (a through (h)(i)
- Currently our agency defines an infant as 12 months and under however, the proposed definition of a child under two years of age makes a significant impact on our program

Per the proposed changes, 101439.1(f)(3) states, 'There shall be no objects hanging above or attached to the side of the crib.' Would a small sign on the outside of the head or foot board (out of the reach of children) be permitted to signify those children able to roll over on their own?"

Response:

The Department appreciates and acknowledges your comments and provides the following responses.

Bedding

Section 101439.1(e) requires that each infant's bedding be used for that particular infant only and that it is changed daily or sooner if soiled. The regulations do not dictate how a licensee accomplishes this. Regarding sanitizing, the Department amended 101439.1(e)(1) to remove the word sanitize. Sanitation may be reviewed in the future for a possible regulatory change. Section 102425(a)(6) was revised to state that bedding that touches an infant's skin shall be cleaned at least weekly or before use by another infant.

Objects Attached to Crib

As per proposed regulation 101439.1(f)(3), no object may be attached to the side of the crib. A sign as you proposed would not be allowed, however your local Regional Office can provide guidance and help determine what would be appropriate.

Definition of Infant As per proposed regulation 102352(i), "Infant" means a child under two years of age."

The Department has considered your comments and determined that no further amendment is required.

Comment from The California Family Child Care Network and Toni Robertson at CocoKids

Comment:

"**Thank You & Our Goal:**
We wish to thank the workgroup that worked so hard to develop regulations that would help to keep infants safe and healthy. While there are many comments and suggestions herein, they are mainly intended to add clarity so that regulations will be readily understood and fairly enforced. We want to support safe sleep regulations that will protect infants. Our goal is that the final regulations will add responsibilities for providers when a required practice has been responsibly researched and shown to be necessary and useful for the ages specified.

General Comments:

1. Please change the word 'licensee' to 'provider' wherever and whenever the regulation could prevent a licensee from allowing staff to help perform safe sleep practices.

This could be the most necessary change that you should make!

It is absolutely essential that, in addition to the licensee, these regulations allow a provider, assistant provider, substitute adult or volunteer to perform safe sleep duties.

The center regulations allow center staff to perform safe sleep duties and FCCH's should have this same privilege.

The safe sleep regulations must not prohibit the licensee from using a qualified substitute when infants are in care. Licensees must be able to go to the doctor, dentist, and pick up children from school. School age children need access to family child care. Providers must not be forced to choose between caring for infants or caring for school age children. Staff in addition to the licensee should also be allowed to perform duties related to safe sleep practices. If licensees would be personally required to do all of the bedding down, checking each 15 minutes and rolling over of infants, they would need to remain personally present at the facility whenever infants are in care. We would not

wish for licensees to refuse to take infants because the safe sleep regulations would prevent them from being able to leave their facility when needed. Currently, licensing regulations accommodate licensees' needs and allow them to leave children with qualified substitutes for a limited percentage of their hours of operation.
When qualified staff or volunteers are present, they should be allowed to do the work that needs to be done to facilitate good care.

General Comments (Continued)

2. Please change the wording in these regulations wherever and whenever these regulations say something like 'age 12 months or younger.' This phrase include 12 month old infants and recommendations are for infants under 1 year of age.

Saying '12 months or younger' means the same thing as 'under 13 months of age' and this includes one year olds who are 12 months old.

The National Sleep Foundation and many other organizations that are experts on SIDS, say that 'Sudden Infant Death Syndrome (SIDS) is the unexpected, sudden death of an infant under one year of age...' https://sleepfoundation.org/sleep-disorders-problems/sudden-infant-death-syndrome-and-sleep

'Safe to Sleep' a public education campaign led By Eunice Kennedy Shriver, National Institute of Health and Human Development, states that 'SIDS is not a risk for babies 1 year of age or older.' https://www1.nichd.nih.gov/sts/Pages/default.aspx

The recommendations in the white paper submitted to D.S.S. *(recommendations list, page 8, #1) begin with the phrase 'infants under the age of 12 months.'

*Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care" by The Health and Safety Regulatory Workgroup, Military Child Care Initiative, September, 2012.

The AAP Guide for Out of Home Care says the following in Standard 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction: 'All staff, parents/guardians, volunteers and others who care for infants in the child care setting should follow these required safe sleep practices as recommended by the American Academy of Pediatrics (AAP) (2):

> Infants up to twelve months of age should be placed for sleep in a supine position (wholly on their back) for every nap or sleep time unless an infant's primary health care provider has completed a signed waiver indicating that the child requires an alternate sleep position; ...'

The wording in your INITIAL STATEMENT OF REASONS (page 16, under 'Specific Purpose') for this section 102425(d) says the following:

'Specific Purpose:

a. This section is being adopted to require licensees to place infants younger than 12 months of age on their backs while sleeping to reduce the risk of suffocation or SIDS.'

Page 11, 102425 INFANT Under 1 Year of Age SAFE SLEEP

Page 11, 102425 (a) There shall be one crib or play yard for each infant present who is unable to climb out of the crib or play yard.

Comment:

1. Please add the word 'present' after the word 'infant.'

Please allow the licensee to clean and sanitize (tell them how to sanitize) a crib or play yard before use by another child. Different infants may be in care on different days. This could allow the licensee to purchase and store fewer cribs and play yards. Space and funds are limited.

Page 11, 102425 (a)(6) ~~Each infant's bedding shall be used for him/her only. Bedding that touches a child's skin should be cleaned weekly or before use by another child.~~ Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant sheets should be replaced with clean sheets at least weekly.

Comments:

1. Please say, 'Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant sheets should be replaced with clean sheets at least weekly.'

Please remove any requirements that seem to call for the personal assignment and storage of infant sheets that are still clean.

The personal assignment and storage of *clean* sheets is not necessary to achieve the desired result of clean, healthy sheets for infants. This personal assignment adds unnecessary complications. Allowing clean infant bedding to be stored together simplifies storage and the number of storage containers and places needed. After all, these sheets have probably touched each other in the dryer.

Imagine the licensee needing to purchase additional sheets for a new child in care, while she/he already has plenty of clean sheets available, because the existing supply of clean sheets had been personally assigned to particular infants in care.

Sheet assignment is also not likely to add emotional comfort for an infant, in the way that blanket assignment or stuffed toy assignment would for older children. The infant sheet assignment would serve no purpose, health-wise or emotionally.

2. Please add 'at least' before the word 'weekly.'

Adding 'at least' allows the licensee to choose to change/launder sheets more often than weekly if he/she chooses.

3. Please replace 'or' with 'and.'

This would eliminate the possible interpretation that the licensee is to choose one of two options: option 1: cleaning weekly or option 2: cleaning before use by another child. A licensee could think that he/she could choose to clean sheets only before use by another child and he/she might clean used sheets less often than weekly.

***4. Please do not place regulations that apply to a 'child', in a section with a heading that states that it applies to infants,* '102425 INFANT SAFE SLEEP.'**

While a regulation for bedding for all ages of children is a good idea, it is confusing to put a regulation for a child in an infant section. The following sentence from the proposed text would apply to a child and not just to infants: 'Bedding that touches a child's skin should be cleaned weekly or before use by another child.'

To put this regulation in a section that applies to infants, you might change the wording to this: 'Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant bedding should be replaced with clean bedding at least weekly.' The point is for infants to have clean sheets and this can be accomplished with changing requirements and without specific requirements for how often laundry is done.

If you wish to create a regulation for the frequency for changing bedding for children in care that are not necessarily infants, you might put it into a section that is not headed 'Infant Safe Sleep.'

Page 11, 102425 (a)(7) Soiled bedding shall be placed in a suitable container and made inaccessible to infants until washed.

Comment:

1. Please consider eliminating this line as it may be unnecessary.

During hundreds of visits to family child care homes, accessible soiled infant bedding has never been seen to be a problem.

This line may invite licensing staff to cite facilities based on their personal opinions about laundry containers since 'suitable' container is not defined. Would a traditional laundry container that has a closed lid and is placed in a bathroom be considered 'suitable'?

Page 11, 102425 (b) (1) Pacifiers shall be excluded from section 102425 (b) if the following provisions are in place:

Comment:

1. To prevent possible misinterpretation, please simply say 'Pacifiers shall be allowed if the following provisions are in place:'

When a person reads 'Pacifiers shall be excluded...' it accidentally gives them the quick impression that the following provisions are going to be those that require them to exclude pacifiers. When we read the sentence to several different persons, they misinterpreted it. They do not understand that pacifier use is considered advisable in the prevention of SIDS.

Page 12, 102425 (b)(1)(A) An infant shall not be forced to take a pacifier when put down to sleep.

Comment:

1. Please eliminate this line.

We are concerned that a reasonable number of attempts to assist an infant with a pacifier could be misinterpreted as forcing. Providers could become afraid to offer pacifiers.

Page 12, 102425 (c) An Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be completed for each infant under 1 year of age ~~12 months of age and younger~~ the licensee has in care and maintained at the facility in the child's record.

Comment:

1. If you do require form LIC 9227, please add a line instructing the licensing staff not to be overly concerned if the pacifier being used is a different brand than the brand specified on the form.

We fear that FCCH's will be unfairly cited if the pacifier being used by the child's family is no longer the same brand as the pacifier that was used when the form was completed.

2. If you do require form LIC 9227, please add a line to the form instructing licensing staff not to be overly concerned if the infant is not sleeping at the same times that are specified on the form at the time the form was completed.

Sleeping times for an infant can change daily and patterns usually change often. Sleeping times at home often differ from sleeping times at the facility because busy parents find it difficult to offer a regular opportunity for napping. Differences would be normal and are to be expected.

3. Please say 'infant under 1 year of age'

Please see "General Comments (Continued)" #2 on the second page.

Page 12, 102425 (d) The ~~licensee~~ provider shall place infants ~~age~~ under 1 year of age ~~12 months or younger~~ on their backs for sleeping.

Comments:

1. Please replace the word 'licensee' with the word 'provider.'

It is absolutely essential that, in addition to the licensee, these regulations allow a provider, assistant provider, substitute adult or volunteer to perform safe sleep duties.

Please see 'General Comments' #1 on the first page.

2. Please change the words to 'under 1 year of age.'

Please see 'General Comments (Continued)' #2 on the second page.

The AAP Guide for Out of home Care says the following in Standard 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction:

All staff, parents/guardians, volunteers and others who care for infants in the child care setting should follow these required safe sleep practices as recommended by the American Academy of Pediatrics (AAP) (2):

b. Infants up to twelve months of age should be placed for sleep in a supine position (wholly on their back) for every nap or sleep time unless an infant's primary health care provider has completed a signed waiver indicating that the child requires an alternate sleep position;

The wording for this section 102425(d) in your INITIAL STATEMENT OF REASONS document (page 16, under 'Specific Purpose') are 'infants younger than 12 months.'

'Specific Purpose:

c. This section is being adopted to require licensees to place infants younger than 12 months of age on their backs while sleeping to reduce the risk of suffocation or SIDS.'

Page 12, 102425 (e) Infants shall not be forced to sleep, stay awake, or stay in the sleeping area.

Comments:

1. Please delete this line because the word 'forced' could be misinterpreted.

The word 'forced' is open to misinterpretation and could lead to unreasonable citations. Any actions that we can imagine that could clearly be considered to be forcing an infant to sleep (drugs, gas, smothering) are already absolutely prohibited and considered to be child abuse. Therefore, we are concerned that this regulation invites licensing staff to cite FCCH's for doing what we consider to be ordinary and normal actions and interpreting these actions to be forcing an infant to sleep.

Providers should not be afraid to put a resisting infant to sleep. It is normal for infants to resist sleeping, even when they are in great need of sleep. Let providers pace the floor with infants, rock infants and sing them lullabies when they need to sleep. This would be in infants' best interest and will help them to be healthy and get the sleep needed to develop their bodies and brains.

2. Please delete this line because sleeping areas in family child care homes are often the same areas that are used for awake children.

Providers working alone and providers with assistants can best supervise sleeping infants when infants sleep in the room being used by the other children in care. The area that is also used as a sleeping area is often the safest place for an infant to stay.

Page 13, 102425 (h) If an infant falls asleep before being placed in a crib or play yard, the ~~licensee~~ provider shall move the infant to a crib or play yard as soon as possible. Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face.

Comments:

1. Please add the recommendation from the 2012 white paper that allows providers to nurture and safely hold sleeping infants.

Allowances for holding infants are included in the white paper submitted to D.S.S., ' Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care' by The Health and Safety Regulatory Workgroup, Military Child Care Initiative, September, 2012. In this white paper, the recommendations list (page 8, #2, 3rd sentence) says, 'Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face.'

Sometimes, infants are teething or their stomachs are not mature or their new skin is itchy and they are uncomfortable and holding them helps them to sleep.

Sometimes, infants are having trouble separating from their parents and holding them helps them feel secure enough to sleep.

Sometimes, infants and providers simply are both emotionally nurtured when sleeping infants are held safely.

2. Please say "provider" instead of 'licensee.'

Please see "General Comments" #1 on the first page.

Page 3, 102425 (i) and (i)(1)
(i)~~The licensee~~ A provider shall supervise infants under 1 year of age while they are sleeping and adhere to the following requirements:
(1) The licensee shall physically check on the infant under 1 year of age every 15 minutes.

Comments:

1. Please change the wording in (i) and (i) (1) from 'infant(s)' to 'infants under 1 year of age.'

Recommendations to check infants every 15 minutes for SIDS or SUIDS should be for infants under 1 year old.

AAP and SIDS safe sleep recommendations are for infants under 12 months old.

Remember that California Health and Safety Codes and Title 22 regulations define an infant as under age 2 years, but the groups and organizations making recommendations that you wish to incorporate are defining an infant as under 12 months of age.

2. Please change the wording to allow qualified staff and volunteers to help with safe sleep responsibilities: (i) **~~The licensee~~ A provider shall supervise infants while they are sleeping and adhere to the following requirements:**

Comments:

Please see 'General Comments' #1 on the first page.

Page 13, 102425 (i) (1) ~~The licensee~~ A provider shall physically check on the infant every 15 minutes.

Comments:

Please see 'General Comments' #1 on the first page.

Page 13, 102425 (i) (2) ~~The licensee~~ A provider shall check for the following:

Comments:

Please see 'General Comments' #1 on the first page.

Page 13, 102425 (i) (2)(C) Infants under 1 year of age ~~age 12 months~~ ~~or younger~~ who are sleeping in a position other than on their back.

Comments:

1. Please say 'under 1 year of age.'

Please see "General Comments (Continued)" #2 on the second page.

Page 13, 102425 (i) (2) (C) 1. If the infant's Individual Infant Sleeping Plan [LIC 9227 (6/18)] does not have Section C completed, ~~the licensee~~ a provider shall return them to their back for sleeping.

Comments:

Please see 'General Comments' #1 on the first page.

Page 13, 102425 (i)(3) If ~~the licensee~~ a provider observes any of the indicators referenced in subsection (2) (A) or (B) above, the ~~licensee~~ provider shall do the following:

Comments:

Please see 'General Comments' #1 on the first page.

Page 13, 102425 (i) (4) ~~The licensee~~ A provider shall be near enough to the sleeping infant to be able to hear them wake up.

Comments:

Please see 'General Comments' #1 on the first page.

Page 13, 102425 (i) (5) If the infant is sleeping in a separate room from where the ~~licensee~~ provider is stationed, the door to the room where the infant~~/s~~ is sleeping ~~in~~ shall remain open at all times.

Page 14, 102425 (i) (5)(A) ~~The licensee~~ A provider shall be able to visually observe the infant without moving the door.

Comments:

Please see 'General Comments' #1 on the first page.

Page 14, 102425 (i)(6) ~~The licensee~~ At least one provider shall be on the same floor as the sleeping infant.

Comments:

1. Allow FCCH's to use bathrooms or kitchens when these are not located on the floor where infants are sleeping or eliminate this line.

Providers need to be able to use kitchens for sanitary food and bottle preparation. Providers should be allowed to use a bathroom while infants are sleeping. Homes may have bathrooms and kitchens on floors that do not offer good sleeping areas for infants. Tri-level homes may have kitchens or bathrooms a few steps below or above the room where infants sleep.

2. Please replace the word 'licensee' with 'provider.'

Please see 'General Comments' #1 on the first page.

Page 15, 102426 OVERNIGHT CARE

Page 15, 102426 (a) To provide overnight care, the licensee shall ensure that ~~meet~~ the following requirements are met:

Page 15, 102426 (a)(1) ~~The licensee~~ A provider shall remain awake whenever children are awake.

Comments:

Please see "General Comments" #1 on the first page.

Page 15, 102426 (a)(2) The door to the room where ~~the licensee~~ a provider is sleeping as well as the door to the room where the children in care are sleeping shall remain open.

Comments:

Please see 'General Comments' #1 on the first page.

Page 15, 102426 (a)(3) If the sleeping arrangements are not situated in such a way that ~~the licensee~~ a provider can be assured of hearing a child wake up, a monitor system shall be used.

Comments:

Please see 'General Comments' #1 on the first page.

Page 15, 102426 (a) (3) (B) The monitor may be used in place of physically checking the infant every 15 minutes if infant is sleeping and a provider ~~the licensee~~ is going to sleep.

Comments:

Please see 'General Comments' #1 on the first page.

Page 15, 102426 (a) (5)(A) ~~The licensee~~ A provider shall be able to visually observe the infant without moving the door.

Comments:

1. Please eliminate this line.

Please understand the way homes are designed and realize that it will often be impossible to position a door in such a way that it will make it possible for a provider to see into a room where an infant is sleeping. Most bedroom doors are next to hallways that require people to stand in the doorway in order to see into the room.

Repositioning the room door will usually not make it possible for a provider to see the infant inside the room from whatever room in which the provider is located.

2. Please change 'licensee' to 'provider.'

Please see 'General Comments' #1 on the first page.

Clean and Sanitized Pacifiers:

1. Please consider adding requirements for the providers to clean and sanitize pacifiers before they are used.

Comment:

A clean pacifier is even more important than a freshly laundered sheet. It goes into the child's mouth where germs would be easily transmitted.

Complying with Safety Instructions on Cribs and Play Yards:

1. Please consider adding requirements for providers to comply with safety instructions written on cribs and play yards.

Cribs and play yards often have safety instructions written on them that are specific to that product and necessary for the safety of infants. For example, play yards often specify that the mattress is to be secured and explain how the mattress must be secured (snapped straps, etc.). Sometimes, cribs have instructions on them that require mattresses to be in the lowest position when children can stand up. Sometimes, cribs specify that the sides must be up when the crib is in use."

"Today (9/19/18) I spoke at the hearing on safe sleep regulations. I spoke about the changes that the California Family Child Care Network (CFCCN) would like to see implemented in the current write up of the Safe Sleep Regulations. There are other issues on the paper submitted that I did not cover and I just wanted to make sure that everything on the comments by CFCCN are taken into consideration. Furthermore, I forgot to share that among the FCC providers that I have had direct contact with in Contra Costa through my work at our R&R (CocoKids) and throughout California in my work with CFCCN, many providers are considering not caring for infants under 1. They feel these regulations are too stringent and give LPA's many options to cite them because of their vagueness which can be interpreted many ways. They say that they do not make enough money to hire assistants as small FCC providers or second assistants in large FCC. They cannot charge parents more to cover the costs of an additional assistant, so they may choose to only care for infants after their 1st birthdays. For our small FCC homes circle time, book reading times, outside time, activity time or even mealtimes with older children will need to be interrupted to exactly follow the 15 minute requirements. They are concerned about infants not being able to sleep away from the louder children. I want to say that with the conversation from centers today saying that costs are prohibitive to them caring for infants under 1 year, and family child care saying the same, California will be in a situation where even more infants than at this time currently, will be cared for by relatives, neighbors and friends. This will result in more harm than anything else. By eliminating infants under 1 from licensed care, we will be placing our most vulnerable population away from the trained and qualified early care and education workforce that would keep them the safest."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Change “Licensee" to "Provider" throughout the proposed regulations:

Though a licensee may use an Assistant Provider to uphold the regulations to care for the children, ultimately, it is the licensee’s responsibility to ensure compliance with all applicable laws and regulations. Therefore, the Department will not be modifying these proposed regulations.

LIC9227

Regarding your request to add a line to the LIC9227 form instructing licensing, the intent of the form is to encourage communication between the infant’s parents and the child care providers. It is up to each licensee to determine the best method in training staff and communicating with families regarding infant sleep.

Sanitizing / Weekly:

Regarding your request to allow the licensees to clean and sanitize a crib or play yard before use of another child and at least weekly Section 102425(a)(6) was amended to require a licensee to clean the bedding before it is used by another child and to clean it at least weekly.

Pacifiers:

102425(B)(1) was amended as recommended to read, "Pacifiers shall be allowed in the crib or play yard if the following provisions are in place: …" Furthermore, the Department will note your comments on cleaning and sanitizing pacifiers to be considered in a future regulatory proposal. Regarding your suggestion to eliminate section 102425(b)(1)(A), this section is in line with Caring for Our Children and the American Academy of Pediatrics guidelines on pacifier use. As such, no further amendments are required.

Infant Ages:

The intent of section 102425(d) is to protect all infants in safe sleep environments by removing the risks that could attribute to SIDS or sleep related deaths. The suggested amendments are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment.

Encouraging Infant Sleep:

The regulations do not prohibit a licensee from soothing children in their arms to comfort them and get them to sleep. However, they should be moved to a safe sleep environment per regulations when possible, once they have fallen asleep. The Department has considered your comments and determined that no amendment is required.

“Child” and “Infant”:

The Department has amended proposed regulations to change the word from child to infant where applicable for accuracy and consistency.

The Department appreciated the additional recommendations. The Department considered the proposals and determined that no further amendments than the two noted above are required

Comment from Scott Edmiston of Learning Care Group

Comment:

"Hello, my name is Scott Edmiston and I am here on behalf of Learning Care Group-the country's second largest private pre-school provider. We serve children from 6 months old to 12 years old with 94 schools in California alone. As a company we service over 8400 infants with about 1500 of them in California.

My role as a District Manager is to ensure the safety and educational standards are being implemented and followed in every school. I can say without hesitation or equivocation that we take the safety of children very serious-especially infants in our care who are the most vulnerable.

Early infant care is a highly sought after service. In fact, at most of my schools I have a 6 month waiting list for the next opening in our program because there is not enough capacity in the marketplace to accommodate demand. This has a significant impact on families as more mothers are returning to work in this robust economy. It seems like every day we hear stories about moms being forced to delay returning to work because they can't find quality care. In addition, the tuition for infant care is continuing to sky rocket because of how infant rooms are required to function. What we need are regulations that ensure the safety of our children, while keeping tuition reasonable for parents.

What I am asking the licensing body to consider is removing the requirement of providing separate sleep areas. This has 2 significant positive implications: First and for most, it increases the safety for infants. By removing these partitions in the room, staff can implement safe sleep practices more effectively. In addition, by removing these partitions, more staff can have direct line of sight of sleeping babies.

Secondly, it removes a significant hindrance in adding more infant slots for families.

As providers-whether non-profit or for profit, we all have to make decisions about where to commit resources. The separate sleep area makes it is less attractive to open up an infant room than a pre-School room and affords no more safety for our infants. In fact, I understand from a recent regional licensing meeting, that there has been a decrease in facilities licensed for infant care which has a negative impact on families and children. Again, I would encourage this body to bring California requirements into alignment with industry best practices by removing the requirement for the separate sleep area. There are 2 other provisions that have been offered up by the Early Care and Education Consortium that I believe would help strengthen Title 22 regulations with respect to infant safe sleeping. It's my contention that primary care providers should be well

trained in how to care for infants and understand not only the regulations, but also the reason behind them. Learning Care Group provides extensive training for all teachers, but specifically infant teachers regarding infant sleeping procedures. I would encourage all providers be required to train infant teachers on specific procedures-such as laying children down to sleep on their back.

Secondly, I would also like to support ECEC's recommendation to ensure all infants regardless of provider, have a safe environment in which to sleep. Cribs that meet American Academy of Pediatrics requirements should be the only acceptable sleep environment for infants. Too often infants are left to sleep in car seats, or other furniture that is not MP recommended.

As someone who has personal experience with SIDS death, my brother, I am particularly sensitive to issues regarding the safety of infants. I believe these sensible regulation changes will further all of our desires to help families and keep kids safe."

Response:

The Department acknowledges the recommendation regarding cribs being the only acceptable sleep environment for infants, regardless of the type of provider used. The Department has worked closely with health and safety stakeholders in the development of concepts and recommendations. It was determined that play yards may be used as an alternative safe sleep environment within Family Child Care Homes as long as the safe sleep guidelines are followed.

The additional recommendations are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment. Therefore, no further amendments will be made.

Comment from Mrs. D

Comment:

My name is Mrs. D. I have been working with children in various capacities for over thirty years. I have run multiple children's programs at large churches, volunteered for 10 years at various programs for at-risk children and youth, fostered 32 children through the County, adopted four children, and have been a mentor to parents for 16 years. Ten years ago, I refurbished a building to open a licensed early childhood education center. We now serve 70 children ages birth through kindergarten. We are NAEYC accredited and have 5 stars for Excelling in Quality through QRIS. We are also a certified healthy foods and Outdoor Classroom Demonstration site.

I have been working with a local property owner and am a few days away from signing a lease to open a second site in spring of 2019. I also have another property owner who has agreed to work with me to open a third location in a neighboring city. We are in a

part of California that offers very few infant center spaces. We fully understand that quality care for our most at-risk age group is dwindling...and fast.

We have a very long waiting list, yet we continue to receive more requests than we can serve every day from new families with infants. We want to help our community, but these new infant regulations have given me great pause and I am rethinking whether I will be able to keep my existing infant center open, let alone open two more.

I appreciate the Department's desire to update and improve infant regulations. It is vitally important that the Department hears directly from providers about the proposed Safe Sleep Regulations to ensure there is understanding about how they will impact our daily operations. At our Back to School Night last Friday, I let our families know that I would be speaking at the hearing regarding these regulations. I explained some of the examples below (the need to turn babies over and have parents sign and that someone would have to be assigned to watch sleeping infant). The response was overwhelming. They agree with my suggestions. One of the parents wrote me later that night asking me to do a petition, to give families the names of local and state representatives so they could write a letter. This dad then said he would be making a sizeable donation so that I could come here today to tell you these things.

Thank you for reading and thank you for listening to our concerns as an early childhood education community.

SECTION 101239: This is too broad, unreasonable for all child care centers, and would impose undue financial and personnel burden not only on child care center staff, but school-age age centers, districts, and Department analysts as well.

RECOMMENDATION: Notify child care providers via internet and printed notification of a potential risk before being expected to comply and risking a citation for violation(s).

SECTION 101429(2): First, to imply that there will be no added cost is preposterous. Our program would have to hire two people (because we are open 10 hours per day) for the sole purpose of watching sleeping infants. This would cost our program $44,850 annually in wages, notwithstanding turnover and training. Families can't afford the cost. Sudden Infant Death Syndrome affects Family Child Care (FCC) homes far more than Infant Centers (IC) on a national basis. Requiring IC's to have constant visual and auditory supervision at all times will force many centers to close down. At a time when the State is pursuing capacity increases for quality care for infants, it does not make sense to impose unreasonable regulations forcing centers to close or not open at all. The new regulations for FCC's are reasonable for IC's and will still provide a safe environment in which infants are carefully and adequately supervised.

RECOMMENDATION: Add, 'A staff person shall be able to visually observe and be able to hear infants at all times and shall physically check on sleeping infants every 15 minutes.'

SECTION 101438.3(c.) ADDITIONAL PROPOSED REGULATORY

CHANGE: Research, best practices, NAEYC, PITC, and guidelines such as Caring for Our Children show that infants thrive when their primary caregivers have close, intimate, consistent, reciprocal contact. Placing a 4' barrier between the infant and the caregiver is placing a barrier between their bond. Infants thrive when they can fall asleep near or with their caregiver. Infants thrive when they can have their backs rubbed while listening to their caregiver sing or talk as they drift to sleep. A 4' wall and cribs are direct barriers to this necessary, appropriate, healthy, and quality bond. Infants wake up unsettled, scared and distressed when they wake up in a different place than where they fell asleep. We have found that placing an infant in a crib room after they fall asleep results, 99% of the time, in an infant who wakes up screaming or crying. This, of course, wakes up the other sleeping infants AND distresses other children who are awake. Not only is this infant scared and distressed, both sleeping AND awake infants are now in distress. All infants must then be calmed down and settled. This is not quality. Additionally, other states do not have this same 4' wall requirement. Separating infants and their caregivers by placing sleeping infants in a room away from their caregivers is not supported by best practice.

You must imagine the opportunity for this infant: A child is playing with her friends. She crawls to her primary caregiver as she is tired, and sleep is coming soon. The caregiver, recognizing the child's cues, retrieves a mat, sheet, and blanket and tells the infant that she is getting her mat for her. The caregiver talks to the child as she prepares her bed. The child crawls to her mat, and the caregiver sits on the shaded grass or floor nearby, and sings to her as she caresses her hair. The infant falls fast to sleep with the sound of her caregiver's voice in her mind and the peace of knowing she will be near this trusted adult when she awakes. This infant may have fallen asleep outside or inside, depending on the weather and the program.

My research shows that children fall asleep faster, sleep more soundly and deeply, and sleep for longer periods of time when they sleep outside as opposed to a crib room. Additionally, sleeping outside prevents the spread of germs and disease where a crib room serves as an incubator for spreading contagious illnesses. Parents, guardians and families support infants sleeping on mats and cots and they support them sleeping outside. Why would we want to override wishes for their children?

RECOMMENDATION: Allow Infant Centers to have flexibility in the location and on what kind of equipment infants sleep. Infant sleep locations and methods should be the discretion of the IC and the direction of the infant's parents/guardians. Quality IC's partner with families to provide an extension of the parent's and guardian's wishes. They trust us with their child's safety and development. Of course they trust us with how and where they sleep. Infants, regardless of age, MUST be allowed to sleep on a mat, mattress, a cot, or a crib (anything indicating it is safe for sleeping) in a location that best meets the needs of the infant and family. Remove the requirement to install a 4' barrier. Remove the language about cribs and blankets. Include language that supports the choices of the parents/guardians and the discretion of the IC.

SECTION 101361 ADDITIONAL PROPOSED REGULATORY CHANGE: All children are different. Some two-year-old children are ready to transition into preschool; others are not. Existing regulations imply that a child may only remain in the IC if there is a developmental need, which, to most, means a developmental deficiency. If parents/guardians request that their child remain in the IC, why would the state require a doctor's note? Families are making a choice that they feel is in the best interests of their child. If the IC can accommodate this, why would the State want to prevent this additional care with lower ratios for a center and family who agree on the best course of action for the child?

RECOMMENDATION: Allow a child to remain in an IC up to 36 months with written parental/guardian consent and IC permission.

SECTION 101428(b) ADDITIONAL PROPOSED REGULATORY CHANGE:

The famous, 'clean and dry at all times' regulation that plagues caregivers, administrators, and quality control centers across the State. This is an impossible, preposterous regulation to uphold. Infants urinate continuously throughout the day. They also relish in the rich and yummy sensory play that wet sand, running sprinklers, mud, and wading pools offer, especially on a hot day. A quality program and a loving caregiver is going to have protocol in place that accounts for the checking of children's diapers frequently. Most centers already check diapers every two to three hours. Additionally, we must account for the relationship and the bond between child and caregiver. These caregivers KNOW their child. They know and can quickly, confidently and accurately measure and anticipate when the children in his or her group will need a diaper change. We spend as much as 50 hours per week with the children, most often, more time than their own families. We know these children. We change their diapers when they need to be changed.

RECOMMENDATION: Require IC's to create a written system or schedule for checking diapers throughout the day. Require parents/guardians to maintain changes of clothes for their children at the center. IC's already do this, but this is because it is reasonable and provides for best practice to meet the changing and varied needs of each infant.

Response:

The Department appreciates your comment and acknowledges your concern with the proposed regulations.

Fixtures, Furniture, Equipment and Supplies

Regarding Section 101239, the intent of the regulation is to protect all infants in safe sleep environments by removing the risks that could attribute to SIDS or sleep related deaths. The Department encourages licensees to consult the Consumer Product Safety Commission (CPSC) website as it is the most up to date and accurate source. The

additional suggested amendments are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment.

Infant Supervision

Regarding 101429 and comments about increased costs, the Department amended the proposed regulation language removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls or half walls if they allow for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

15-Minute Checks

The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Recalled Products

Regarding Section 101239, the Department appreciates the recommendation that the Department provide a list of the banned or recalled products to licensees. The department encourages licensees to consult the CPSC website as it is the most up-to-date and accurate source.

Blankets

The Department reviewed your comments on infant blankets. The proposed regulations are consistent with CFOC National Recommendations. Items in the crib with the infant are a hazard and put infants at an increased risk for SIDS.

The additional suggested amendments are outside of the scope of the noticed hearing, as they do not address the changes made and open for public comment. Therefore, the Department has determined that no changes to the proposed regulations are necessary.

Comment from Carla Clark of Shasta Head Start Child Development

Comment:

"Individual Infant Sleeping plan:

1. This form should be integrated into the existing Needs and Services Plan. The requirement for a separate form will create another layer of regulation to meet.
2. The requirement that caregivers roll a child back onto their backs while they are sleeping if they do not have a form that states they can roll off their backs will result in children possibly being woken up during napping and not getting the rest they need. Perhaps this could be amended to requiring the center to ask the parents to fill out the section which says that the infant can roll on to their back within 36 hours of the first time the infant rolls over while in care.

The requirement that states that a dedicated staff member must watch infants continually while they are asleep:
1. Our centers at SHS are constructed in such a way that allows visual observation of the entire center. We keep our overall groups small, from 6-8 infants with a ration of at least 1:3. Infants do not sleep on a defined schedule, and this requirement will mean that we must hire a whole position to watch 1 or 2 sleeping babies, when they are already being watched. Infant care is extremely expensive as it is, and this creates another layer of expense.
2. DEPARTMENT has made an initial determination that the proposed action will not have a significant adverse economic impact. However, if infant centers must hire a whole new staff position to sit and watch 1 or 2 sleeping babies, this will have an unfavorable impact on our already high cost per child. We may need to curtail the amount of <12 month infant slots that we offer to the community."

Response:

The Department acknowledges your comments and proposed amendments.

Staffing Requirements
The Department revised the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls that allow for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Infant Sleeping Plan/Infant's Ability
Regarding your suggestions pertaining to the Individual Infant Sleeping Plan and the requirement to return infants to their backs until they are able to roll back on their own, the intent of the requirement is to reduce the risk of sleep related deaths and for the licensee to identify signs of distress in an infant and seek medical attention when necessary. The intent is to not disturb the infant, but rather to check on them to ensure they are not exhibiting any signs of distress. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure safer sleep.

The Department has reviewed the comments and determined that no further amendments are required.

Comment from Kristen Anderson of Child Care Partnership Council

Comment:

"I am writing to support some, but not all, of the proposed regulations. If new regs are truly based on multiple, thorough research studies, then standards should be equivalent across all types of care settings. Some that are include:

- Requiring cribs or play yards in Family Child Care Homes
- Removing bumper pads, blankets, toys, and other hazards from cribs
- Use of the safest sleep position
- Not leaving infants sleeping in other types of equipment

However, the proposed supervision requirements for Family Child Care Homes and Child Care Centers are not equivalent. If the Department has determined that checking on a sleeping infant every 15 minutes is a high enough standard of safety in a Family Child Care Home, that should be allowed in Infant Centers as well. The requirement that centers have a teacher/caregiver sitting in a crib room/area at all times contributes to the extremely high cost of infant care and the resulting dearth of facilities. No parent would expect that level of supervision, nor provide it themselves.

Also, how this ("15-minute check") regulation can be enforced by CCL is a question."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Staff Supervision
The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

15 Minute Checks
The Department has also amended the regulation by adding the requirement that Family Child Care Home providers and Child Care Center staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s). Regarding how the 15-minutes checks will be enforced, during inspections licensing program analysts (LPAs) will observe staff conducting the 15-minute checks and will review the 15-minute documentation. LPAs will cite accordingly if the required documentation is missing or if the 15-minute checks are not conducted and documented.

The Department has considered your comments and determined that no further amendments are required.

Comment from Benu Chhabra

Comment:

"I support the recommendations proposed by CFCCN California Family Child Care Network on behalf of all family child cares and as the president of our local association, The Future: Supporting Family Child Care. Providers are saying that they are highly considering not caring for infants under 1 year. It will be too complicated for the providers to follow all the proposed new regulations. we do not get paid enough to take on this responsibility. And that we fear if these regulations are not cut back drastically, infants under 1 year old will then either be highly charged for care (because even small FCC will need an assistant to follow these regulations) or children under 1 will be placed with neighbors, friends of families! Effectively placing all children under 1 at even higher risks in the hands of unskilled. untrained caregivers. Please keep this in mind when making the final decisions on these safe sleep regulations."

Response:

The Department acknowledges your concerns with the proposed regulations. The intent of the proposed regulations is to ensure a safe sleeping environment for the infants in child care facilities. The department reviewed your comments and determined that no amendments are required.

Comment from Brenda Poteete of Sierra Cascade Family Opportunities

Comment:

"Regarding 'No loose articles and soft objects in the crib': Expecting babies to sleep without NO blanket is developmentally inappropriate. Babies need their blankets to feel secure and safe while they are sleeping. This is especially true since every single one of them sleep with a blanket(s) at home. This regulation will also cost providers a considerable amount of money as they will have to purchase sleep sacks for infants to use while at school. The cost of these is $20 each, so for a classroom of 8 infants that is at least 4320 in order to have at least one spare for each child. Additionally, infants that arrive asleep will most definitely be wrapped in a blanket. The child will have to be taken out of the blanket (& potentially placed in the sleep sack) which will wake them up - thus interrupting their sleep routine and causing undue stress on the child, the parent who brought them, and the staff.

Regarding Supervision: The proposed regulation allows for a family day care home provider (regardless of the number of children in care) to put a infant to sleep in another room (without an adult in that room) as long as they can hear them and requires them to 'check on them' every 15 minutes. However, based on the proposed regulations, in a

child care center the infant cannot even be in a crib in the same room on the other side of a 3-3.5 foot divider (often see through) where the infant can be seen and heard at all times. Instead a staff person will have to be on the same side of the wall as the infant (which also eliminates them from being considered in the adult:child ration for the awake infants), when the FCC provider doesn't even have to be in the same room. This disparity in requirements for a sleeping infant is ridiculous. This regulation will cause a significant increase in costs for center providers! It will require hiring more staff in order to ensure a 4:1 ration for the awake infants, because a staff member will need to be out of the adult:child ration count when there is even just 1 infant sleeping.

Please do not impose regulations on child care centers that do not allow children to sleep with a blanket. Keep this regulations as it is now that allows for a non-fluffy blanket to be used.

Please pass regulations that allow for child care centers to have a sleeping infant in the same room with an adult who can hear and see them at all times. Ensure the regulations allows for a 3-4 ft divider to be used to separate cribs for sleeping infants from the rest of the room and allow the person on the crib side of that divider to be counted in the adult: child ration for the room."

Response:

Infant Supervision
The Department appreciates your comments and acknowledges your concern with the proposed regulations. The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Blankets
Regarding your comments regarding infant blankets, the proposed regulations are consistent with CFOC National Recommendations. Items in the crib with the infant are a hazard and put infants at an increased risk for sleep related death.

Infant Sleep Sacks
While infant sleep sacks are not prohibited by the proposed regulations, there is no requirement for licensees to provide them.

The Department has considered your comments and determined that no amendment is required regarding this issue.

Comment from Lucy Chaidez of EMSA

Comment:

"My comment is regarding the infant safe sleep proposed regulations. I thought it would be good to include the AAP safe sleep guideline for tummy time, as that helps to develop a baby's neck muscles, which can help them to protect their airway as they develop and when they begin to roll over, back and forth (which is a particularly dangerous time for SUID). The AAP guideline for tummy time is:

- Supervised, awake tummy time is recommended daily to facilitate development.

I think the proposed safe sleep regulations are wonderful! Kudos to DEPARTMENT CCLD!!! Thank you for the opportunity to comment!"

Response:

The Department acknowledges your comment and proposed amendment regarding tummy time. Although your comment is outside of the scope of the noticed hearing, the Department may consider your suggestions in the future for a possible regulatory change.

Comment from Erinn Levin of Child Educational Center

Comment:

"This document includes comments concerning the implementation of proposed 'Safe Sleep Regulations' within existing regulations contained in Title 22, CCR, Div. 12 for Infant Care Centers and Family Child Care Homes. Specifically, my comments will address the impact of proposed changes in the regulation concerning the supervision of sleeping infants under 12 months old as well as the language used for 'sleeping equipment.'

I am the Director of the Infant and Toddler program at the Child Educational Center in La Canada, Ca. We have two classrooms for infants under twelve months old operating with no more than a 1:4 teacher to child ratio. We also have transparent, four-foot barriers dividing sleep from activity areas in each room, which meets the regulation in Section 101438.3(b) of Title 22.

1. Section 101429(2)

Comment: While I am in favor of making the safe sleep guideline more clear and adhering to the research that support safe sleep practices, aspects of the proposed regulation change will be problematic.

In its Initial Statement of Reasons, the Department determined that there was no additional cost anticipated for Infant Care Centers by this regulation. This is simply not accurate. In order to have a teacher in the separated sleep area whenever a child is sleeping, I would have to hire an additional, full time teacher to provide that level of supervision. Childcare programs in general have tight budgets and low funding. This would not only place a strain my program's budget and ability to provide staffing for the entire program (which includes preschool and school-age), it could also cause some programs to cease operation. Childcare programs for infants are expensive to operate already, and consequently, it is difficult to find quality infant care in the state of California. This requirement may lead to diminishing options for families needing quality infant care, and thus have a negative impact on the economy and workforce in the state of California. Quality childcare is directly connected to the state's economy.

Recommendation: I second the recommendation of my colleague, Gary Andary, who has also submitted his comments.

Rewrite Section 101429{a}{2} to read 'A staff person shall be able to visually observe and be able to hear infants at all times, and shall physically check on sleeping infants every 15 minutes'.

1. Section 101439.l (b) and (c), Infant Care Centers; and 102425(a) Family Child Care Homes

Comment: These subsections contain language requiring the licensee to determine whether an infant 'is unable to climb out of a crib' to determine whether an infant is required to sleep in an approved crib or can sleep on 'floor mats or cots'. Our program uses approved safe sleep equipment certified by the U.S. Consumer Product Safety Commission and ASTM safety standards in the form of rest mats with fitted sheets. We determined that cribs actually inhibit the ability to supervise multiple infants adequately. Caring for Our Children: National Health and Safety Performance Standard 5.4.5 states that cribs, mats, or cots are permissible as long as they are in compliance with the current U.S. CPSC and ASTM safety standards."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Infant Supervisions/Staffing
The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

15-Minute Checks
The Department has also amended the proposed regulations by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

Cribs
Regarding the use of cribs, a crib meeting CPSC safety standards must be used in center settings. The regulations for FCCHs allow for cribs and play yards as approved by the CPSC. A crib or play yard is the safest place for an infant to sleep according to the American Academy of Pediatrics. Until an infant is able to climb out of them, the proposed regulations are consistent with CFOC National Recommendations. Therefore, the Department has considered your comments determined that no further amendment is required.

f) 15-Day Renotice Statement

Pursuant to GC section 11347.1, a 15-day renotice and complete text of modifications made to the regulations were made available to the public following the public hearing. The following testimony was received as a result of the 15-day renotice.

Comment from Marian Sheridan

Comment:

"If this proposal is adopted, I feel it would be a detriment to the availability of infant care, 0-12 Months. Something which is already a pressing need. Infant spots are scarce. This is so time consuming and is unrealistic when also trying to abide by the rule of not waking a sleeping child. If adopted, I will seriously consider NOT caring for infants in the age range this applies to. This needs to be reconsidered!"

Response:

The Department acknowledges this comment. The intent of the proposed regulations is to ensure a safer sleeping environment for infants in all child care facilities. Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required.

Comment from Lee Allton of Orange County Child Care Association

Comment:

I am responding to the letter referenced above and the request for statements/arguments to be submitted by December 28, 2018. I am calling into questions two points in the proposed regulations that are impractical and will likely cause extensive compliance issues. First, based on Title 22, Regulation 102417, assistants should also be given the authority to help the licensee comply with the documentation process. Second, it seems unnecessary to require licensees to document normal sleep patterns (when infants are found sleeping on their back).

For your convenience, I have highlighted each section below.

(1) The licensee is not prohibited from scheduling sleep times for infants over 12 months old.
(f) Infants shall not be swaddled while in care.
(g) Car seats shall only be used for transportation purposes and shall not be used for sleeping in accordance with section 102425(a).
(h) If an infant falls asleep before being placed in a crib or play yard, the licensee shall

move the infant to a crib or play yard as soon as possible.
(i) The licensee shall supervise infants while they are sleeping and adhere to the following requirements:
(1) The licensee shall physically check on the infant every 15 minutes.
(2) The licensee shall check and document for the following:
(A) Labored breathing
(B) Signs of overheating: flushed skin color, increase in body temperature and restlessness
(C) Infants age 12 months or younger who are sleeping in a position other than on their back.
1. If the infant's Individual Infant Sleeping Plan [LIC 9227 (6/18)] does not have Section C completed the licensee shall return them to their back for sleeping.
(D) Documentation shall be maintained in the infant's file and be available to the licensing agency for review. Documentation shall include the following:
a. Date
b. Infant's name
c. Time of each 15-minute check
(3) If the licensee observes any of the indicators referenced in subsection (2) (A) or (B) above, the licensee shall do the following:
(A) Immediately notify the infant's authorized representative.
(B) Obtain specific instruction from the infant's authorized representative regarding action to be taken and make prompt arrangements to obtain medical treatment if necessary.

Concerning the use of an assistant, the proposed regulations clearly state that the Licensee will be the only one monitoring the infants sleep cycle. I propose that the assistant also be added to the wording that would include the staffing of a Large Family Child Care facility. I believe as written the regulations are in conflict with the Title 22 regulations as stated in:

102417 OPERATION OF A FAMILY CHILD CARE HOME 102417
NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.78, 1597.44, and 1597.465, Health and Safety Code.

(a) The licensee shall be present in the home and shall ensure that children in care are supervised at all times. When circumstances require the licensee to be temporarily absent from the home, the licensee shall arrange for a substitute adult to care for and supervise the children during his/her absence. Temporary absences shall not exceed 20 percent of the hours that the facility is providing care per day.

Also as mentioned above, requiring licensees and/or their assistants to document all sleeping positions and/or patterns may detract from their primary purpose which is to look for unhealthy sleep indicators and to immediately notify the infant's authorized representative. It makes more sense that providers be required to document only those indicators referenced in subsection (2) (A) or (B), not when infants are sleeping in a normal position (on their back).

Thank you for considering my comments and hopefully you find them useful."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations and offers the following responses.

Documenting Infant Sleep Patterns
Regarding documenting the infant's sleeping patterns, the intent of this regulation is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the sleeping infant, watch for signs of distress, and ensure a safer sleep environment.

Licensee Vs. Provider
Regarding who may conduct the 15-minute infant checks, a licensee can use an Assistant Provider to uphold the regulations to care for the children, though, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations.

Additional Comments
Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required

Comment from Jane Callejo

Comment:

"I'm a small family childcare provide and I'd like to voice my opinion on what I read about the safe sleep. It looks like we have to get signature from the doctor when a child starts to turn over. I feel that we do not need to do that step because everyone knows that a child starts to turnover by age 4 months. I would be ok if we can just get a signature from parent that a child can turn over."

Response:

The Department acknowledges your comment regarding the proposed regulations. The Department is not responding to this comment as it does not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required.

Comment from Tanya Simkovich of Loving Littles Daycare

Comment:

"I am writing to comment on the infant safe sleep regulations ORD# 0318-03 and to express my concerns regarding the implications that the current proposal places on the child care provider (the 'licensee').

In requiring that it is the licensee only who may complete the 15 minute interval infant sleep checks and subsequent written logs, the licensee's right under the current title 22 regulations, to be absent from the daycare 20% of operating hours will no longer be an option. This will prevent the licensee from having the opportunity to attend to their own health maintenance, in that it will greatly limit, if not completely consume their availability to attend doctors appointments, see their dentists, or be afforded a sick day - in which normally the licensee's hired employee would be able to act as the sole care provider so not to subject the daycare children to the licensee's illness.

With this in mind, I would like to ask that you strongly reconsider the stipulations of this bill, in order that the licensee will remain able to serve daycare children and the children's families to the best of their abilities, without having to neglect their own personal health needs.

As a solution, I am proposing that employees of the daycare, who, by current regulations are required to be fingerprinted, and first aid and CPR certified, also be entrusted with the duty of documenting infants' sleep patterns, in the event that the licensee is unavailable to perform this duty.

As stated previously, this proposed change to the regulation will allow the licensee to be absent up to 20% of daycare operating hours in order to care for their own healthcare needs."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations. To clarify, in response to your question regarding who may conduct the 15-minute infant checks, a licensee can use an Assistant Provider to uphold the regulations to care for the children, though, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations.
The Department has reviewed the comments and determined that no further amendments are required.

Comment from Jennifer Pifeleti of the Institute for Human and Social Development, Inc.

Comment:

"I am writing this in response to the new proposed regulations for sleeping for infants. The new regulations which would require checks every 15 minutes and documentation of checks is overly burdensome for staff. With the fact that staff are already in the sleeping area, able to visually see and hear children at all times, checking every 15 minutes and then having to document those checks is duplicative and unnecessary. The best prevention of SIDS is to have staff that are trained on safe sleep practices and who practice active supervision while children are sleeping."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations. The intent of regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. While the regulations require licensees to conduct and document the 15-minute checks, they do not dictate how a licensee accomplishes this.

The Department has reviewed the comments and determined that no further amendments are required.

Comment from Sherry Velte

Comment:

"Many of the regulations in regards to supervision are not feasible. The end result will be a shortage of infant care. Families do not constantly watch a sleeping infant nor is there any evidence this prevents the occurrence of SIDS.

Teachers should be allowed to manage other tasks while supervising sleeping infants such as folding laundry. Teachers should be allowed to have an awake infant in the nap space. It is common for a sleepy infant to go back to sleep once rocked. The nap space can be a calm, warm space for another young infant to play quietly on the floor. Infants are nestled in a home like setting, not sterile like a hospital setting in individual isolates or incubators.

All of us agree with safe sleep and nobody wants to lose a child in their care or home. Many pediatricians tell families, once an infants system shuts down (SIDS) nothing resuscitates them or we would have defoliators and respirators in nap rooms.

Please prevent the passage of the new regulations."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations. The intent of regulations is to ensure that infants are always supervised by sight and sound. A staff person may conduct other tasks that still allow for this level of supervision. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Linda Kaercher of Merced County Office of Education

Comment:

"Amend Section 101429 to read: 101429 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION FOR INFANTS 101429

Regarding safe sleep regulations: A separate room should be clarified and licensing analysts should allow infants sleeping in a space within a room separated by only plexiglass dividers that do not preclude seeing and hearing the infant to be observed by a staff person who is outside of that space but can still see and hear the baby. This allows for adequate supervision. Because infants sleep on demand, (and regulations require that they do so) requiring a person to be in that space means that agencies must hire an additional person just to supervise sleeping infants. This means the ratio is not 1:4 it is 2:4 making infant care unaffordable, this creating a lack of supply of affordable infant care for parents who must have care in order to work."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulation. The proposed regulations were amended to allow for the use of transparent walls or half walls allowing for constant visual and auditory supervision. The Department has reviewed this comment and determined that no further amendments are required.

Comment from Anonymous

Comment:

"This email is in comment of the revisions to the safe sleep regulations. I would like my comments to remain anonymous.

I support the Departments decision to remove the language related to having a designated staff person in the sleeping area. This would have caused centers to no longer provide infant care due to the additional staff person that would be needed in the

sleeping area to an already impacted industry where finding qualified staff is already a challenge.

I suggest that the department define what is meant by a "room" for 102425 (i) (5). One person may consider rooms to be physical spaces separated by room dividers (i.e. four-foot walls that have clear plexiglass or wooden slats) whereas another person may consider one physical environment behind 4 walls to be a room. This may pose issues in the future with violations sited and misinterpretations. I believe the intent is to allow staff to still be on the other side of a room divider and supervising an infant sleeping on the other side of the divider (as long as they can still see and hear the infant) however “room” is not made clear and should be to avoid discrepancy."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulation. To clarify, the proposed regulations were amended to allow for the use of half or transparent walls and half walls in child care centers allowing for constant visual and auditory supervision at all times. The Department has reviewed the comments and determined that no further amendments are required.

Comment from Kendra Allen of Go Kids, Inc.

Comment:

"I am writing to provide comment on Community Care Licensing’s Safe Sleep Regulations. I have worked in the early childhood setting for over twenty five years and have vast knowledge around care and services for children ages infant through twelve years old. I appreciate that the Department has addressed the much needed and long over-due safe sleep practices into regulation.

I have the following comments for consideration:

1. 101439.1 (e): regulation begins referring to 'bedding', I recommend that this be clearly defined by the Department. Does bedding refer to the fitted sheet only or does this refer to a blanket or loose sheet? Further, 101439.1 (f) states 'free from all loose articles and objects' which implies no bedding other than the fitted sheet as referenced above in regulation. If the intention, which I believe it should be, is that no loose sheets and/or blankets be in the crib, I recommend the addition of that language in that section perhaps in 101439.1 (f) to read 'Loose sheets and/or blankets shall not be used' or 'Soft bedding, which includes blankets, quilts, comforters and pillows shall not be used' to be very clear and this is consistent with safe sleep practices. I often find when visiting family child care homes and centers that the families provide very thick blankets for their infants and they are used in these settings by Providers and staff and thus I feel this addition is much needed and imperative.

2. 101439.1 (f): I recommend including 'Positioning devices shall not be used'

3. 101430 (3) (A) (2): I recommend replacing 'suits' with 'that is most comfortable.' I often find when training and/or discussing regulation with staff being concise is key for understanding and misinterpretation and 'suits' just strikes me as a word that will come into question.

4. 101430 (3) (D): I recommend changing 'infants head' to 'infant's head'

5. 101439.1 (b) (1-2): I recommend moving these sections under 101439.1 (b) (6) with the other crib mattress requirements

6. 101439.1 (e): I recommend inserting 'daily' as follows: 'Such bedding shall be replaced daily, when wet or soiled, or when the crib….' And eliminate 101439.1 (e) (1)

7. 101439.1 (g) (1): I recommend replacing 'napping space' to 'designated sleeping area' to reflect same language as in 101430 (3) (B) for consistency.

8. 102425 (c): I recommend changing to 'has in care, maintained at the facility in the infant's record and shall be available to the licensing agency for review' and eliminate 102425 (c) (3).

9. 102425 (i) (2): I recommend 'The licensee shall physically check on the infant every 15 minutes and document the following:' and eliminate 102425 (i) (2).

10. 102425 (i) (2) (D): I recommend adding 'd. Staff initials for each check' as Providers may have assistants and this will also reflect center base language for consistency

11. 102425 (i) (5): correct 'infant/s' to 'infant(s)'

12. 101430 (a) (3) (C): this reflects not swaddling, however, I recommend considering the addition of language that address appropriate dress for sleeping infants. The Department may also want to consider the temperature of the designated sleeping area. Thank you for the opportunity to provide comment. If you have further questions, please let me know."

Response:

The Department acknowledges your comments and proposed amendments. The word "infant/s" in 102425(i)(5) will be corrected. The proposed regulations are written in a way to ensure each requirement has a specific regulation section assigned to it. Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Sherry Velte of Associated Students, Inc.

Comment:

"There is no evidence the new sleep regulations will prevent SIDS. There is plenty of evidence the new regulations is very costly which will reduce access to affordable, quality infant care. Families do not watch sleeping infants in their homes. Infants with SIDS have been known to pass away in the arms of their loving families. Teachers must be allowed to care for barely awake children in the nap space. I've seen analysts make teachers remove an infant from the space when they were rocking them to sleep. It is unreasonable."

Response:

The Department acknowledges your comments. The proposed regulations are necessary to bring licensees into conformity with current national standards on safe sleep for infants in child care settings to reduce the risk of sleep related infant deaths.

Regarding supervision, the Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision.

The Department has reviewed this comment and determined that no further amendments are required.

Comment from Michelle Lynam

Comment:

"It appears that this regulation requires us to physically touch and write down documented status every 15 minutes, resulting in pages and pages of documented physical checks. That seems burdensome and unnecessary. I can see my infants napping, I can see them breathe, can see their color and their movement every time I glance in their direction while I am engaged with OTHER CHILDREN. Now I will have to stop my activity to perform additional steps, multiple times a day for multiple infants??? It is no wonder so many providers are phasing out infant care entirely, leaving many more infants vulnerable to unlicensed care because of a lack of infant spots. The more burdensome well meaning regulations are, the harder it is to attract and KEEP providers and the more endangered thousands of infants will be who are currently cared for in unlicensed facilities."

Response:

The Department acknowledges this comment. The intent of regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of

distress in an infant and seek medical attention when necessary. The proposed regulations allow for the individual provider to determine how to best facilitate and document the checks and allow for proper supervision of the other children in care. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Yasmeen Kamrani of Little Seeds Children's Center, Inc.

Comment:

"My name is Yasmeen Kamrani Sallam, I am the administrator of three licensed facilities in Alameda, CA. I have over 19 years of experience in the ECE field, 10 of which have been in administration. I have a MA in Early Childhood Education and a BS in Business Administration. I am commenting on behalf of myself as an administrator as well as the organization I work for.

While I see the value and purpose of the Safe Sleep Regulation there are several issues within the regulatory action. For example, our priority is to remain in 100% compliance and in order to do that providing examples of the forms, policies and procedures, and templates would be of great help in order to implement the regulation the proper way. Without any reference it is hard to head in the right direction of how this needs to be properly implemented. Another area of concern is with infants 6weeks-12month in group care their sleeping schedules are all over the place and unpredictable, truly tracking every 15 minutes is pretty rigorous and can steer a teacher's attention from completely being in 100% supervision of all of the children. Tracking each individual child every 15 minutes in a group setting is unrealistic and can pose providing one on one attention in a group setting which in turn poses a liability. With the infants already existing needs and service plans + quarterly updates and daily activity charts, the teachers and directors are already responsible for a large amount of paperwork/filing. This will create even more paperwork. The sheer amount of logging may deter a teacher from providing quality care to meet all the children's needs since they have to focus on logging every 15minutes. With one teacher focusing on the logging, one teacher watching the children, this may pose a problem where we are not able to maintain a teacher to child ratio if a child wakes up. Budgets are already tight as it is so it would be difficult to hire an additional teacher to come help.

Our field already experiences high levels of burnout and turnover. Implementing another intensive paper filled regulation may deter infant teachers by intimidating them with the amount of logging they are held responsible for.

The sample LIC 9227 form would be a great addition for increasing safety and awareness but the logging of every 15 minutes is unrealistic and frivolous. The logging of every 15 minutes when infants 6weeks-12months have varying schedules would

create a great imbalance in the quality group care our teachers strive to provide for the children and their families."

Response:

The Department acknowledges your comments and concerns. Regarding documenting the infant's sleeping patterns, the intent of regulation Section 101429(a)(B) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. The proposed regulations allow for the individual provider to determine how to best facilitate the checks and allow for proper supervision of the other children in care.

Regarding your request for form examples, the Department will be posting the LIC 9227 form on www.cdss.ca.gov upon approval.

Regarding the additional comments and suggestions, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Erinn Levin of Child Educational Center:

Comment:

"I am writing in response to the latest version of the proposed new safe sleep guidelines for infants (ORD #0318-03) as the Director of the Child Educational Center's Infant-Toddler Program. Our programs are research-based and have been field tested for almost 40 years, and we have been continuously NAEYC Accredited since 1989. Our program serves 60 children under the age of 2 years.

Regarding changes to the proposed regulations subsequent to the public hearing, we are very pleased to see that the previously proposed requirement to staff a teacher in the sleep area whenever an infant is sleeping has been removed while keeping supervision standards in place.

We remain concerned about the requirement that infants need to be placed in cribs until they are able to climb out for several reasons. Our program uses sleep mats approved by the United States Consumer Product Safety Commission because placing cribs in our sleep area actually inhibits our ability to supervise infants while they are sleeping. It also inhibits our ability to evacuate quickly and safely from our sleep area. Furthermore, the language use in Title 22 that 'There shall be one crib or play yard for each infant who is unable to climb out of the crib or play yard' is vague and therefore subject to confusion. It is very difficult to determine whether a child can climb out of a crib. Some

children never attempt this until they are two or three years old if ever. Others pull up and climb at a much earlier age. Additionally, bending over a crib with the mattress positioned at the lowest point, creates physical health risks for teachers. It is commonly known that repeated bending in this way can result in back injuries.

On behalf of program leaders at the CEC, and for the well-being of infants and teachers responsible for their care, I am proposing that the language in sect ion 101439.1be amended to include sleep mats approved by the U.S. Consumer Product Safety Commission for infants. This is due to the fact that mats with fitted sheets can provide a safer option for programs depending on the configuration of the sleep area, and teachers are also better positioned to comfort and assist the child as needed.

Thank you for considering our input on this important matter."

Response:

The Department acknowledges these comments, but, will not be responding as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Bobbie Rose of California Childcare Health Program

Comment:

"The regulations as presented are clear and easy to understand. Thank you for your diligent work to protect the health and safety of infants in licensed child care programs."

Response:

The Department appreciates your comments of support.

Comment from Wendy Bybee of Bright Horizons Children's Center

Comment:

"Please reconsider the regulation requiring a care giver to be 100% in the sleep room while an infant is sleeping even just one. There are no proven statistics or studies showing this is beneficial or preventative in any way."

Response:

The Department appreciates your comment. The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls or half walls allowing for constant visual and auditory supervision. The Department will continue to

require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended regulations for both center and home facilities by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

The Department has reviewed this comment and determined that no further amendments are required.

Comment from Alma Ortega of Sequoia Children's Center

Comment:

"Clarification questions on new wording on Section 101429. Can nap/sleeping area with a HALF WALL be monitored by 15-minute rule/checklist, and staff on the other side of the wall. Staff can visibly monitor the sleeping infant on the other side of the half wall without being physically inside sleeping area? When Is the LIC 9227 take into affect?"

Response:

The Department appreciates your questions. The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls or half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department amended regulations for both center and home facilities by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).
Regarding the LIC 9227, it will not be required until the regulations take effect and it will be posted online at www.cdss.ca.gov. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Abbey Alkon:

Comment:

"Comment on Section 1596. 81, Health and Safety Code.
Reference: Sections 1596.72, 1596.73, 1596.81, 1596.846 and 1597.05

Amend Section 101429 to read:
101429 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION FOR INFANTS

Comment from Abbey Alkon, RN, PNP, MPH, PhD
I am a Professor at the UCSF School of Nursing, Director of the California Childcare Health Program (cchp.ucsf.edu) and former CA SIDS Program Director; I conduct research and teach pediatric nurse practitioners about infants and safe sleep practices.

I have 2 comments about the new regulations.

1. Documentation

    1. It is unrealistic and time intensive for the caregiver to document every 15 minutes about the infant's sleep; Every child care program should have a Safe Sleep Policy that supports safe sleep but does not require documentation; If a caregiver does not put an infant to sleep on their back or provide a safe sleep environment, then they are violating the regulation (based on the safe sleep policy).

    2. Template for a safe sleep policy is provide on the California Childcare Health Program website in English and Spanish. Safe Sleep Policy: https://cchp.ucsf.edu/content/forms

2. Moving infants from their natural sleeping position when they roll over to the back.

    1. It is known that infants can roll from back to front once but not have the ability to roll back and forth; Thus, the American Academy of Pediatrics recommends that infants that can roll back and forth at least twice be put to sleep on their back and then resume whatever sleeping position they find. These infants should NOT be forced or moved onto their backs if they resume a position of sleeping on their stomachs. On the other hand, if an infant rolls from their back to their stomach once, they should be put on their back by the supervising adult.

    2. Reference: AAP SIDS and Other Sleep-Related Infant Deaths: Updated 2016 Recommendations for a Safe Infant Sleeping Environment, Pediatrics, 2016; **DOI:** 10.1542/peds.2016-2938. The article states, 'Once an infant can roll from supine to prone and from prone to supine, the infant can be allowed to remain in the sleep position that he or she assumes.'

Comments are related to Section 101229, the following shall apply:

(p. 4 and 14)

4. Documentation shall be maintained in the infant's file and be available to the licensing agency for review.

Documentation shall include the following:

a. Date
b. Infant's name

c. Time of each 15-minute check
d. Staff initials for each check

(p.7 & 13)

Infants with an Individual Infant Sleeping Plan [LIC 9227(6/18)] that have Section C of the form completed and signed by an authorized representative shall be placed on their back when first laid down to sleep; in the event the infant changes position, they may remain in the position that suits them.

1. If the infant is able to roll back and forth for the first time in care the provider may then fill out Section D of the Individual Infant Sleeping Plan [LIC 9227(6/18)], notify the authorized representative, and obtain the authorized representative signature no later than the next business day."

Response:

The Department appreciates your comments. The intent of regulation section 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Michelle Spoor:

Comment:

"I'm writing with some concerns about the proposed new sleep regulations. I have been a licensed child care provider for infants and toddlers since 1992. My focus in this letter is on small family daycare.

Most of the proposed steps for caring for infants make sense. The ISP is reasonable; however, the documentation required every 15 minutes is not. This new process has the potential to cause more problems than it solves.

Some providers keep napping babies in a bedroom. The new regulations would require leaving the other children they are caring for every 15 minutes. We MUST think of all children in our care. Beginning in January, I will have 3 babies under the age of 1 and a little boy with special needs. To document, I will have to take my eyes off of him and write down the 15-minute checks for 3 different babies. He needs my full attention. These regulations wouldn't be fair to HIM.

Further, you are stating that the 15-minute checks must be in the child's file. If this proposition is passed, this needs to be worded in a way that says past days should be

kept in the file and the current day may be out where it can be recorded in as short a time as possible.

The language regarding the sleeping arrangements for infants could also use some clarification. Some providers use the playpens as play areas. We shouldn't have to worry about being cited for having toys in a playpen if the child is awake and playing with them. This ambiguity should not exist.

Thank you for taking the time to consider my input on this matter."

Response:

The Department appreciates your comments and acknowledges your concern with the proposed amendment. Regarding your comment about the supervision of the children who are awake verses the need to check on and document a sleeping infant's condition every 15-mintues, the proposed regulations allow for the individual provider to determine how to best facilitate the checks and allow for proper supervision of the other children in care. The intent of regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. It will be up to the provider to determine how to best manage the assessments to meet the requirements. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Quezada:

Comment:

"As a Licensed daycare provider I will not be taking infants under 12 months of age if these new regulation are passed. AS provider of 16 + years of experience working with children in my home. I have cared for these children and I respect my parents' wishes on how they want their children raised. With the New Regulation prevents a provider from doing our job effectively and efficiently, This New law proses more risk of other children in care being unsupervised due to us checking on a sleeping infant every 15 minutes.

1. The licensee shall physically check on the infant every 15 minutes and log the information. This is unrealistic expectations that a provider has to check on a sleeping child every 15 minutes for many reasons.

License regulation 102417 (a) allows a provider/Licensee to be absent/away 20% of the day from the facility. This should be revised so that a volunteer, or staff member be able to check on the sleeping infant. The current law 102417 will need to be revised if only Licensee can check on a sleep infant.

2 reason. We need to supervise all children. If we have to physically check in the sleeping infant every 15 minutes how are we supposed to educate the children. How do we feed other infants their bottles, prepare meals/ give older children their food if we have to physically check on a sleeping baby every 15 minutes and log information. We will have to potentially leave eating children sitting at table while checking on a sleeping infant and Logging information about the check. This now leaves the children potentially choke on food. Or what if I'm doing art with the preschool and have to leave them to check physically check on a sleeping child. This can lead a child to possibly hurting them myself with art Martials. This is not logical and leaves more opportunity for more harm done to children. Babies need their sleep uninterrupted just like you do.

Questions I have and need to be addressed

Can a newborn sleep in a bassinet?

Can in infant under 12 months of age sleep on a cot?

If a sleeping infant is a room that could be seen at all times how do we log that information?

I Hope you realize that there is a high demand for infant care and if this regulation Pass more providers like myself will quit taking infants and it will drive up the cost for parents to find affordable infant care. There will be less Infant license child care facilities. It's the state of California best interested to leave have some changes but not an overkill on Infant sleep regulations."

Response:

The Department acknowledges these comments.

Supervision
Regarding your comment about the supervision of the children and requirement to document a sleeping infant's condition every 15-mintues, the proposed regulations allow for the individual provider to determine how to best facilitate the checks and allow for proper supervision of the other children in care. The intent of regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that licensees can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment.

15-Minute Checks
In response to your comment to allow a volunteer or staff member to do the required 15-minute infant checks, a licensee can use an Assistant Provider to uphold the regulations to care for the children, though, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations.

Specific Questions
Regarding your specific questions, regulation Section 102425(a) dictates that one crib, or a play yard shall be available to each infant who is unable to climb out of a crib or play yard. A bassinet is not an acceptable sleeping environment. If the infant can climb out of the crib or play yard, a cot or mat is acceptable for sleeping.

Regarding regulation Section 102425(i)(1) requires licensees to physically check on the infants every 15 minutes and document their condition. Simply looking in the room at them is not sufficient. If the sleeping infant(s) are in the same room and visual and auditory supervision can be provided at all times, the regulation still requires physical checks on the infants every 15 minutes and documentation of their condition, as specified.

Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required.

Comment from Celia Hartman Sims of KinderCare Education:

Comment:

"KinderCare Education is pleased to respond to the California Department of Social Services' (CDSS) modified proposed regulations as relates to safe sleep, ORD No. 0318-03. KinderCare Education is honored each day to provide high-quality education and care to over 170,000 children across the United States, including 22,000 here in California. Our children range in age from six weeks to 12 years of age. We are committed to serving all children regardless of background and financial circumstance, and we are proud of the diverse group of children we serve. Ensuring child care staff are trained in and follow safe sleep practices are critical components of infant safety in child care settings. Since the American Academy of Pediatrics (AAP) first issued its recommendation in 1992 that infants be placed on their backs to sleep, followed by the 1994 launch of the Back to Sleep Campaign, the United States has seen a fifty percent reduction in the number of infants dying from Sudden Infant Death Syndrome (SIDS). KinderCare appreciates many of the modifications DEPARTMENT has made to the proposed safe sleep regulations. We believe, however, that the State needs to clarify certain aspects of the proposed regulations and modify other provisions to ensure the final regulatory package clearly meets best practices as recommended by AAP and others. KinderCare offers the following recommendations for improving upon the Department's modified proposed changes to Title 22, California Code Regulations (CCR) as relates to safe sleep practices in licensed child care settings.

Supervision of Sleeping Infants

1. KinderCare supports the revision to section 101229 that would require staff to physically check on sleeping infants every 15 minutes and to document those checks.

However, we request again that the state eliminate its regulation in section 101438.3(c) that requires centers to physically separate the infant sleeping and activity areas. No health and safety rationale exists for physically separating the infant sleep area from the indoor activity area. To the contrary, physical barriers such as those required by current regulation diminish health and safety and run counter to recommended best practice. Only one other state requires this physical separation as all other states abandoned such separation years ago to best align their state regulations with current best safe sleep practices. Caring for Our Children (3.1.4) recommends against separate sleep areas for infants and we recommend California strike the current 101438.3(c) requiring the physical separation of the infant sleep and indoor activity areas. Centers that currently have transparent or half walls separating the infant sleeping area and activity area should be allowed to remove those walls, thereby allowing staff optimal sight and sound of sleeping infants.

2. If the state continues to require the physical separation of the infant sleep and activity areas, KinderCare believes the state should clarify in regulation the difference between a separate sleeping area and 'room,' which must meet the requirements in the newly proposed 101429(a)(2)(D). We would argue that an infant sleeping area separated from the infant activity area with a transparent half wall should not be considered a 'separate room from where the staff are located.' Those centers with transparent half walls, while subject to the newly proposed 101429(a)(2)(B) requiring staff checks every 15 minutes, should not be subject to the newly proposed 101429(a)(2)(D).- Failing to provide clarity on this point can lead to confusing messages from the state and contradictory interpretations among licensors across the state. Again, we would argue that the preferred regulation for ensuring an infant's wellbeing would be to eliminate current regulation 101438.3(c) requiring the physical separation of the infant sleep and indoor activity areas.

Staff Training in Safe Sleep

As we state above, KinderCare concurs with AAP that all staff working with infants in a child care setting should receive training on safe sleep practices and implement safe sleep practices. While adding requirements to implement safe sleep practices, California's proposed safe sleep regulations are missing critical training requirements. Implementation of safe sleep practices will not be successful in the absence of training. We recommend that the state add requirements for training in safe sleep by amending current state regulations to require the completion of training regarding the most current version of the American Academy of Pediatrics (AAP) recommendations for a safe infant sleeping environment within thirty (30) days of employment and every three (3) years for all of the following infant care staff –

- Center director qualifications and duties (101415)
- Assistant center director qualifications and duties (101415.1),
- Teacher qualifications and duties (101416.2)
- Aide qualifications and duties (101416.3)

Infant Care Activities

We concur with Caring for Our Children's definition of a safe sleep environment -- "a safety- approved crib, firm mattress, firmly fitted sheet, and the infant placed on their back at all times, in comfortable, safe garments, but nothing else." Too often infants are left to sleep in car seats and other furniture or equipment that is not a safety-approved crib. We recommend strengthening the proposed 101430(a)(3)(E) as follows:
(E) Infants shall only sleep in approved sleeping equipment as defined in section 101439.1. If an infant falls asleep before being placed in a crib the licensee shall move the infant to a crib as soon as possible to ensure the health and safety of all infants in the classroom.

Infant Care Center Sleeping Equipment

We offer one recommendation and seek one clarification to the proposed sleeping equipment regulations in section 101439.1.

1. To ensure optimal health conditions for young children, we recommend adding back to the proposed regulations in section 101439.1(e)(1) that infant sleep equipment be both "changed and sanitized daily.

2. KinderCare strongly agrees that nothing should be hung on the sides or ends of cribs at any time as proposed in section 101439.1(f)(3). We do, however, seek clarification regarding the meaning of "attached" in that same section. As a best safe sleep practice in our centers, we use name tags on individual cribs that have the child's name and indicate the infant's ability to roll over. These name tags are updated as soon as the child can roll back to stomach and stomach to back with ease. The crib name tags we use are attached to the ends of the cribs and do not obstruct the caregiver's ability to view the sleeping infant. We ask that the final regulations clarify that the use of such crib name tags are allowable.

Nationally, SIDS deaths have decreased significantly in the last three decades thanks to changes in practice, training, and regulation. KinderCare strives to be instrumental in the improvement of the safety and wellbeing of our children and applauds California for proposing this set of safe sleep regulations. Should you have any questions regarding our recommendations for strengthening these modified proposed safe sleep regulations, please do not hesitate to contact us."

Response:

The Department appreciates your comments.

Staffing
To clarify, the Department amended the proposed regulation language removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls or half walls allowing for constant visual and

auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times.

15-Minute Checks

The proposed regulations allow for the individual provider to determine how to best facilitate the checks and allow for proper supervision of the other children in care.

Sanitize
Regarding removal of the word "sanitized" from section 101439.1(e)(1), we will be adding this consideration to a future regulatory proposal.

Additional Comments
Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required.

Comment from Gary Andary:

Comment:

"This reviewer submitted comments and recommendations dated Sept. 5, 2018 regarding the original proposed regulations, please consider the following brief new comments regarding the Revised Proposed Regulations:

1. Section 101429 (a)(1) and (2) require constant and direct observation of sleeping infants at all times. Thousands of neuroscience studies, verified by functional MRI testing, show that the average individual's attention wanders on average about 46% of the time, as our brains and thoughts are subject to both external and internal distractions. Under the best of intentions to pay attention, this ability to have focused as well as open attention and awareness still consists of mind wandering of about 30% of the time. Neuroscientists, Psychologists, and Psychiatrists agree that our minds are only capable of 'continuous partial attention.'

When we also consider that the existing infant care regulations allow one teacher to supervise up to 12 sleeping infants at one time, we realize that what the Department is proposing for infant caregivers is not humanly possible. In reality, caregivers need to vary their focus and attention to meet the needs of the entire group of sleeping infants.

It is recommended that the phrases 'constantly' and 'at all times' be deleted.
In addition, this reviewer suggests a subsection within the Section 101429 that states, 'It shall be permissible for a staff person supervising infants in the sleeping area to scan or pan the entire sleeping area while supervising and attending to sleeping infants.'

2. Proposed Added Section 101429(a)(2)(B)(4) will require documentation of each 15-minute check of sleeping infants. A typical infant center, licensed for 24 infants who each nap up to 2 hours per day will have up to 192 entries per day, and over 4000 entries per month. Retaining the sleep check documentation records will require maintaining about 50,000 recorded entries per year.

Please consider the workload cost on Licensing Program Analysts, who will be charged with reviewing these recorded entries, as well as the effect of further distracting the supervising infant caregivers, who will have to interrupt their sleep time supervision in order to make multiple log entries. It would be more effective for Licensing Program Analysts to review the actual process of checking on sleeping infants every 15 minutes, during facility visits. In addition, there is the concern that written records can easily be altered, falsified, or back-dated, casting doubt on their accuracy.

If the Department wishes to retain the 15-minute documentation requirement, it is recommended that a standardized form be developed to assure uniformity throughout the state. In addition, please consider adding a Subsection to indicate that 'A video recording may be maintained of the required checks for sleeping infants, that displays dates and times, which can be substituted for the required written record.'

3. Section 101429(a)(2)(d) will require that a staff person will be required in the designated sleeping room, when it is a separate room in an infant center. Throughout the State, there are a variety of designated infant sleep areas that meet the existing regulatory requirements. Some areas have moveable partitions, some have permanent half-wall partitions, and others meet the definition of separate rooms, as identified by local Building and Fire Codes.

To avoid confusion, arguments, and unnecessary appeals with the Department, it is recommended that a clear definition of what constitutes a separate designated sleeping room be stated in the regulations. This could be a standard definition of a room used in other types of health care or community care facilities, as defined in local fire and building codes, or based on a standard easily understandable definition of a room, such as, 'A separate designated sleeping room is an interior space defined by full perimeter walls that completely enclose the area.'

This reviewer appreciates the time devoted by Department staff to implement Safe Sleep Regulations for infants, which hopefully, will help to reduce sudden infant deaths in child care facilities. Please feel free to contact the undersigned for references supporting assertions in Item Number 1, above.

Response:

The Department appreciates your comments and acknowledges your concern with the proposed regulations.

Infant Sleep Patterns
Regarding documenting the infant's sleeping patterns, the intent of this regulation is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary.

15-minute checks
By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. Regarding a separate room, the Department is allowing the use of transparent and half walls to aid in the supervision of infants.

Staff Supervision
The use of transparent and half walls, as indicated, where supervision by sight and sound is possible at all times, does not constitute a separate room and licensees will not be held to the staffing requirement necessary for a separate room as outlined in 101429(a)(2)(d).

Standardized form
Regarding the suggestion of a standardized form, the regulations do not prohibit facilities from drafting their own form to document the checks or safe safe sleep policies to give to parents.

Misc Comments
Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Jodie Keller of e center

Comment:

"In response to the Public Comment opportunity for final input on Safe Sleep Regulations involving Safe Sleep Regulations E Center would like to offer comment and request clarification regarding some of the proposed language.

I would first like to acknowledge and share our appreciation for the committee that has been working on this for listening to readers' comments when the proposed language was first released for comment back in September 2018. It is refreshing to see that much of the language has changed to provide better clarity and that some of the most restrictive proposed regulations have changed to be less of a financial burden on programs. I do ask however that consideration be given for the following:

Sections 101429(a)(2)(d)

Please clarify what you would consider a 'separate room'? Is this a room with walls that prevents staff from viewing the infants and completely away for the activity room or are you referencing the napping areas that are sectioned off within a classroom for napping infants but still part of the classroom structure? Our napping areas are in our classrooms but separated by dividers to prevent mobile infants from access the napping area and to keep noise to a minimum.

Sections 101430(a)(3)(C)

We recognize the concern with adults possibly not swaddling in the correct manner which could cause harm to an infant. For this reason, we would simply ask that you engage in a public service message about the possible harms of swaddling so that it becomes a public message and not a message solely coming from the care providers. Many parents believe in swaddling as do hospital nurseries. For some babies, proper swaddling is necessary for them to get restful sleep. A public message about the possible harm that can be done would be appreciated by those of us in licensed childcare if this regulation is to be approved. Our preference would be that guidance be given to allow for partial swaddling (arms free) so that the infant can still feel the comfort of a partial swaddle.

Sections 101439.l(f)(l) through (3)

The requirement to have cribs free from all loose articles and soft objects is appreciated with the exception of no longer allowing breathable blankets. It is our request that breathable blankets continue to be allowed in cribs for napping infants as opposed to requiring caregivers to change a napping baby from his blanket into a "sleeper" upon arrival to a licensed child care program to allow for his/her nap to continue. Regulations should continue to regulate the types of blankets acceptable but we are opposed to removing blankets completely for napping infants.

This section references bedding for the infant and the regulations around storage and laundering but it does not clarify if a blanket is considered bedding or not. It also indicates that cribs shall be free from all loose articles and objects; is a blanket considered a loose article?

Thank you for allowing the opportunity for the public to share their voice regarding these proposed regulatory changes. If you have any questions or request further clarification about the concerns described in this letter, please do not hesitate to contact me at (530) 741-2995 or email me at jkeller@ecenter.org."

Response:

The Department appreciates and acknowledges these comments.

Infant Supervision and Separate Rooms
Regarding a separate room, the Department revised proposed regulations to allow for

the use of transparent and half walls to aid in the visual and auditory supervision of infants. The presence of transparent wall or half walls does not constitute a separate room as long as supervision by sight and sound is possible at all times.

Swaddling

Regulation sections 101430(a)(3)(C) (CCC) and 102425(f) (FCCH) are necessary to bring licensees into conformity with current national standards on safe sleeping for infants in child care settings to reduce the risk sleep related infant fatalities. According to Caring for our Children National Recommendations Standard 3.1.4.2, swaddling is not necessary or recommended for caregivers because it can increase the risk of serious health outcomes, including SIDS, suffocation, and hip dysplasia. Swaddling, when done correctly, could be beneficial to helping infants sleep. However, due to the varying factors that can impact an infant's ability to be swaddled safely, the Department is acting cautiously to prohibit swaddling in child care facilities.

Blankets

The Department reviewed your comments on infant blankets. The proposed regulations are consistent with CFOC National Recommendations. Items in the crib with the infant are a hazard and put infants at an increased risk for SIDS. No items will be allowed in a crib with an infant. The Department has reviewed these comments and determined that no further amendments are required.

Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice.

Comment from Gloria Gonzalez of Gloria Gonzalez, Rosa Fernandez, Karla Diaz, Jesus Nieves & Alicia Family Child Care, Family Gurmilan Child Care

Comment:

We wish to thank the workgroup that worked so hard to develop regulations that would help to keep infants safe and healthy. While there are many comments and suggestions herein, they are mainly intended to add clarity so that regulations will be readily understood and fairly enforced. We want to support safe sleep regulations that will protect infants. Our goal is that the final regulations will add responsibilities for providers when a required practice has been responsibly researched and shown to be necessary and useful for the ages specified.

General Comments:

1. Please change the word "licensee" to "provider" wherever and whenever the regulation could prevent a licensee from allowing staff to help perform safe sleep practices.

This could be the most necessary change that you should make! It is absolutely essential that, in addition to the licensee, these regulations allow a provider, assistant provider, substitute adult or volunteer to perform safe sleep duties. The center regulations allow center staff to perform safe sleep duties and FCCH's should have this same privilege. The safe sleep regulations must not prohibit the licensee from using a qualified substitute when infants are in care. Licensees must be able to go to the doctor, dentist, and pick up children from school. School age children need access to family child care. Providers must not be forced to choose between caring for infants or caring for school age children. Staff in addition to the licensee should also be allowed to perform duties related to safe sleep practices. If licensees would be personally required to do all of the bedding down, checking each 15 minutes and rolling over of infants, they would need to remain personally present at the facility whenever infants are in care. We would not wish for licensees to refuse to take infants because the safe sleep regulations would prevent them from being able to leave their facility when needed. Currently, licensing regulations accommodate licensees' needs and allow them to leave children with qualified substitutes for a limited percentage of their hours of operation. When qualified staff or volunteers are present, they should be allowed to do the work that needs to be done to facilitate good care.

2. Please change the wording in these regulations wherever and whenever these regulations say something like "age 12 months or younger." This phrase include 12 month old infants and recommendations are for infants under 1 year of age.

Saying "12 months or younger" means the same thing as "under 13 months of age" and this includes one year olds who are 12 months old. The National Sleep Foundation and many other organizations that are experts on SIDS, say that "Sudden Infant Death Syndrome (SIDS) is the unexpected, sudden death of an infant under one year of age..." https://sleepfoundation.org/sleep-disorders-problems/sudden-infant-death-syndrome-and-sleep

"Safe to Sleep¨ a public education campaign led By Eunice Kennedy Shriver, National Institute of Health and Human Development, states that "SIDS is not a risk for babies 1 year of age or older." https://www1.nichd.nih.gov/sts/Pages/default.aspx

The recommendations in the white paper submitted to D.S.S. *(recommendations list, page 8, #1) begin with the phrase "infants under the age of 12 months."

*Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care" by The Health and Safety Regulatory Workgroup, Military Child Care Initiative, September, 2012.

The AAP Guide for Out of Home Care says the following in Standard 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction: "All staff, parents/guardians, volunteers and others who care for infants in the child care setting should follow these required safe sleep practices as recommended by the American Academy of Pediatrics (AAP) (2):

> Infants up to twelve months of age should be placed for sleep in a supine position (wholly on their back) for every nap or sleep time unless an infant's primary health care provider has completed a signed waiver indicating that the child requires an alternate sleep position; ..."

The wording in your INITIAL STATEMENT OF REASONS (page 16, under "Specific Purpose") for this section 102425(d) says the following:

"Specific Purpose:

d. This section is being adopted to require licensees to place infants younger than 12 months of age on their backs while sleeping to reduce the risk of suffocation or SIDS."

Page 11, 102425 INFANT Under 1 Year of Age SAFE SLEEP
Page 11, 102425 (a) There shall be one crib or play yard for each infant present who is unable to climb out of the crib or play yard.

Comment:
1. Please add the word "present" after the word "infant."
Please allow the licensee to clean and sanitize (tell them how to sanitize) a crib or play yard before use by another child. Different infants may be in care on different days. This could allow the licensee to purchase and store fewer cribs and play yards. Space and funds are limited.

Page 11, 102425 (a)(6) ~~Each infant's bedding shall be used for him/her only. Bedding that touches a child's skin should be cleaned weekly or before use by another child.~~ Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant sheets should be replaced with clean sheets at least weekly.

Comments:
1. Please say, "Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant sheets should be replaced with clean sheets at least weekly."
Please remove any requirements that seem to call for the personal assignment and storage of infant sheets that are still clean. The personal assignment and storage of *clean* sheets is not necessary to achieve the desired result of clean, healthy sheets for infants. This personal assignment adds unnecessary complications. Allowing clean infant bedding to be stored together simplifies storage and the number of storage

containers and places needed. After all, these sheets have probably touched each other in the dryer. Imagine the licensee needing to purchase additional sheets for a new child in care, while she/he already has plenty of clean sheets available, because the existing supply of clean sheets had been personally assigned to particular infants in care. Sheet assignment is also not likely to add emotional comfort for an infant, in the way that blanket assignment or stuffed toy assignment would for older children. The infant sheet assignment would serve no purpose, health-wise or emotionally.

2. Please add "at least" before the word "weekly."
Adding "at least" allows the licensee to choose to change/launder sheets more often than weekly if he/she chooses.

3. Please replace "or" with "and."
This would eliminate the possible interpretation that the licensee is to choose one of two options: option 1: cleaning weekly or option 2: cleaning before use by another child. A licensee could think that he/she could choose to clean sheets only before use by another child and he/she might clean used sheets less often than weekly.

***4. Please do not place regulations that apply to a "child", in a section with a heading that states that it applies to infants,* "102425 INFANT SAFE SLEEP."**
While a regulation for bedding for all ages of children is a good idea, it is confusing to put a regulation for a child in an infant section. The following sentence from the proposed text would apply to a child and not just to infants: "Bedding that touches a child's skin should be cleaned weekly or before use by another child." To put this regulation in a section that applies to infants, you might change the wording to this: "Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant bedding should be replaced with clean bedding at least weekly." The point is for infants to have clean sheets and this can be accomplished with changing requirements and without specific requirements for how often laundry is done. If you wish to create a regulation for the frequency for changing bedding for children in care that are not necessarily infants, you might put it into a section that is not headed "Infant Safe Sleep."

Page 11, 102425 (a)(7) Soiled bedding shall be placed in a suitable container and made inaccessible to infants until washed.

Comment:
1. Please consider eliminating this line as it may be unnecessary.
During hundreds of visits to family child care homes, accessible soiled infant bedding has never been seen to be a problem.
This line may invite licensing staff to cite facilities based on their personal opinions about laundry containers since "suitable" container is not defined. Would a traditional laundry container that has a closed lid and is placed in a bathroom be considered "suitable"?

Page 11, 102425 (b) (1) Pacifiers shall be excluded from section 102425 (b) if the following provisions are in place:

Comment:
1. To prevent possible misinterpretation, please simply say "Pacifiers shall be allowed if the following provisions are in place:"
When a person reads "Pacifiers shall be excluded..." it accidentally gives them the quick impression that the following provisions are going to be those that require them to exclude pacifiers. When we read the sentence to several different persons, they misinterpreted it. They do not understand that pacifier use is considered advisable in the prevention of SIDS.

Page 12, 102425 (b)(1)(A) An infant shall not be forced to take a pacifier when put down to sleep.

Comment:
1. Please eliminate this line.
We are concerned that a reasonable number of attempts to assist an infant with a pacifier could be misinterpreted as forcing. Providers could become afraid to offer pacifiers.

Page 12, 102425 (c) An Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be completed for each infant under 1 year of age ~~12 months of age and younger~~ the licensee has in care and maintained at the facility in the child's record.

Comment:
1. If you do require form LIC 9227, please add a line instructing the licensing staff not to be overly concerned if the pacifier being used is a different brand than the brand specified on the form.
We fear that FCCH's will be unfairly cited if the pacifier being used by the child's family is no longer the same brand as the pacifier that was used when the form was completed.

2. If you do require form LIC 9227, please add a line to the form instructing licensing staff not to be overly concerned if the infant is not sleeping at the same times that are specified on the form at the time the form was completed.
Sleeping times for an infant can change daily and patterns usually change often. Sleeping times at home often differ from sleeping times at the facility because busy parents find it difficult to offer a regular opportunity for napping. Differences would be normal and are to be expected.

3. Please say "infant under 1 year of age"
Please see "General Comments (Continued)" #2 on the second page.

Page 12, 102425 (d) The ~~licensee~~ provider shall place infants ~~age~~ under 1 year of age ~~12 months or younger~~ on their backs for sleeping.

Comments:
1. Please replace the word "licensee" with the word "provider."
It is absolutely essential that, in addition to the licensee, these regulations allow a provider, assistant provider, substitute adult or volunteer to perform safe sleep duties. Please see "General Comments" #1 on the first page.

2. Please change the words to "under 1 year of age."
Please see "General Comments (Continued)" #2 on the second page.

The AAP Guide for Out of home Care says the following in Standard 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction:

"All staff, parents/guardians, volunteers and others who care for infants in the child care setting should follow these required safe sleep practices as recommended by the American Academy of Pediatrics (AAP) (2):

e. Infants up to twelve months of age should be placed for sleep in a supine position (wholly on their back) for every nap or sleep time unless an infant's primary health care provider has completed a signed waiver indicating that the child requires an alternate sleep position;

The wording for this section 102425(d) in your INITIAL STATEMENT OF REASONS document (page 16, under "Specific Purpose") are "infants younger than 12 months."

"Specific Purpose:

f. This section is being adopted to require licensees to place infants younger than 12 months of age on their backs while sleeping to reduce the risk of suffocation or SIDS."

Page 12, 102425 (e) Infants shall not be forced to sleep, stay awake, or stay in the sleeping area.

Comments:
1. Please delete this line because the word "forced" could be misinterpreted.
The word "forced" is open to misinterpretation and could lead to unreasonable citations. Any actions that we can imagine that could clearly be considered to be forcing an infant to sleep (drugs, gas, smothering) are already absolutely prohibited and considered to be child abuse. Therefore, we are concerned that this regulation invites licensing staff to cite FCCH's for doing what we consider to be ordinary and normal actions and interpreting these actions to be forcing an infant to sleep. Providers should not be afraid to put a resisting infant to sleep. It is normal for infants to resist sleeping, even when they are in great need of sleep. Let providers pace the floor with infants, rock infants and sing them lullabies when they need to sleep. This would be in infants' best interest and will help them to be healthy and get the sleep needed to develop their bodies and brains.

2. Please delete this line because sleeping areas in family child care homes are often the same areas that are used for awake children.

Providers working alone and providers with assistants can best supervise sleeping infants when infants sleep in the room being used by the other children in care. The area that is also used as a sleeping area is often the safest place for an infant to stay.

Page 13, 102425 (h) If an infant falls asleep before being placed in a crib or play yard, the ~~licensee~~ provider shall move the infant to a crib or play yard as soon as possible. Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face.

Comments:

1. Please add the recommendation from the 2012 white paper that allows providers to nurture and safely hold sleeping infants.

Allowances for holding infants are included in the white paper submitted to D.S.S., " Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care" by The Health and Safety Regulatory Workgroup, Military Child Care Initiative, September, 2012. In this white paper, the recommendations list (page 8, #2, 3rd sentence) says, "Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face." Sometimes, infants are teething or their stomachs are not mature or their new skin is itchy and they are uncomfortable and holding them helps them to sleep. Sometimes, infants are having trouble separating from their parents and holding them helps them feel secure enough to sleep. Sometimes, infants and providers simply are both emotionally nurtured when sleeping infants are held safely.

2. Please say "provider" instead of "licensee."

Please see "General Comments" #1 on the first page.

Page 3, 102425 (i) and (i)(1)

(i)~~The licensee~~ A provider shall supervise infants under 1 year of age while they are sleeping and adhere to the following requirements:

(1) The licensee shall physically check on the infant under 1 year of age every 15 minutes.

Comments:

1. Please change the wording in (i) and (i) (1) from "infant(s)" to "infants under 1 year of age."

Recommendations to check infants every 15 minutes for SIDS or SUIDS should be for infants under 1 year old. AAP and SIDS safe sleep recommendations are for infants under 12 months old. Remember that California Health and Safety Codes and Title 22 regulations define an infant as under age 2 years, but the groups and organizations making recommendations that you wish to incorporate are defining an infant as under 12 months of age.

2. Please change the wording to allow qualified staff and volunteers to help with safe sleep responsibilities: (i) ~~**The licensee**~~ **A provider shall supervise infants while they are sleeping and adhere to the following requirements:**

Comments:
Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (1) ~~The licensee~~ A provider shall physically check on the infant every 15 minutes.

Comments:
Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (2) ~~The licensee~~ A provider shall check for the following:

Comments:
Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (2)(C) Infants under 1 year of age ~~age 12 months or younger~~ who are sleeping in a position other than on their back.

Comments:
1. Please say " under 1 year of age."
Please see "General Comments (Continued)" #2 on the second page.

Page 13, 102425 (i) (2) (C) 1. If the infant's Individual Infant Sleeping Plan [LIC 9227 (6/18)] does not have Section C completed, ~~the licensee~~ a provider shall return them to their back for sleeping.

Comments:
Please see "General Comments" #1 on the first page.

Page 13, 102425 (i)(3) If ~~the licensee~~ a provider observes any of the indicators referenced in subsection (2) (A) or (B) above, the ~~licensee~~ provider shall do the following:

Comments:
Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (4) ~~The licensee~~ A provider shall be near enough to the sleeping infant to be able to hear them wake up.

Comments:
Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (5) If the infant is sleeping in a separate room from where the ~~licensee~~ provider is stationed, the door to the room where the infant~~/s~~ is sleeping ~~in~~ shall remain open at all times.
Page 14, 102425 (i) (5)(A) ~~The licensee~~ A provider shall be able to visually observe the infant without moving the door.

Comments:
Please see "General Comments" #1 on the first page.

Page 14, 102425 (i)(6) ~~The licensee~~ At least one provider shall be on the same floor as the sleeping infant.

Comments:
1. Allow FCCH's to use bathrooms or kitchens when these are not located on the floor where infants are sleeping or eliminate this line.
Providers need to be able to use kitchens for sanitary food and bottle preparation. Providers should be allowed to use a bathroom while infants are sleeping. Homes may have bathrooms and kitchens on floors that do not offer good sleeping areas for infants. Tri-level homes may have kithens or bathrooms a few steps below or above the room where infants sleep.

2. Please replace the word "licensee" with "provider.
"Please see "General Comments" #1 on the first page.
Page 15, 102426 OVERNIGHT CARE
Page 15, 102426 (a) To provide overnight care, the licensee shall ensure that ~~meet~~ the following requirements are met:

Page 15, 102426 (a)(1) ~~The licensee~~ A provider shall remain awake whenever children are awake.

Comments:
Please see "General Comments" #1 on the first page.

Page 15, 102426 (a)(2) The door to the room where ~~the licensee~~ a provider is sleeping as well as the door to the room where the children in care are sleeping shall remain open.

Comments:
Please see "General Comments" #1 on the first page.

Page 15, 102426 (a)(3) If the sleeping arrangements are not situated in such a way that ~~the licensee~~ a provider can be assured of hearing a child wake up, a monitor system shall be used.

Comments:
Please see "General Comments" #1 on the first page.

Page 15, 102426 (a) (3) (B) The monitor may be used in place of physically checking the infant every 15 minutes if infant is sleeping and a provider ~~the licensee~~ is going to sleep.

Comments:
Please see "General Comments" #1 on the first page.

Page 15, 102426 (a) (5)(A) ~~The licensee~~ A provider shall be able to visually observe the infant without moving the door.

Comments:
1. Please eliminate this line.
Please understand the way homes are designed and realize that it will often be impossible to position a door in such a way that it will make it possible for a provider to see into a room where an infant is sleeping. Most bedroom doors are next to hallways that require people to stand in the doorway in order to see into the room. Repositioning the room door will usually not make it possible for a provider to see the infant inside the room from whatever room in which the provider is located.

2. Please change "licensee" to "provider."
Please see "General Comments" #1 on the first page.

Clean and Sanitized Pacifiers:
1. Please consider adding requirements for the providers to clean and sanitize pacifiers before they are used.

Comment:
A clean pacifier is even more important than a freshly laundered sheet. It goes into the child's mouth where germs would be easily transmitted.

Complying with Safety Instructions on Cribs and Play Yards:

1. Please consider adding requirements for providers to comply with safety instructions written on cribs and play yards.
Cribs and play yards often have safety instructions written on them that are specific to that product and necessary for the safety of infants. For example, play yards often specify that the mattress is to be secured and explain how the mattress must be secured (snapped straps, etc.). Sometimes, cribs have instructions on them that require mattresses to be in the lowest position when children can stand up. Sometimes, cribs specify that the sides must be up when the crib is in use.

Response:

The Department appreciates your comments and suggestions.

Licensee Vs. Provider
To clarify, regarding your suggestion to change "licensee" to "provider," a licensee can use an Assistant Provider to uphold the regulations to care for the children, though, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations.

Child Vs. Infant Language
Regarding your suggestion to change the word "child" to "infant" within this proposed regulation package, this has been corrected.

Bedding/Weekly
Regarding your request to allow the licensees to clean and sanitize a crib or play yard before use of another child and at least weekly, Section 102425(a)(6) was amended to require a licensee to clean the bedding before it is used by another child and the word "at least" was added clean bedding weekly. The reference to sanitation was removed and will be considered for a future regulation package.

Pacifiers/Force
Sections 101439.1(f)(1) and 102425(b)(1) do not exclude the use of pacifiers, but the regulations do include previsions to ensure they are used safely during infant sleep. The Department amended the proposed regulation language to clarify the requirements surrounding the use of pacifiers. The new requirements will now read "Pacifiers shall be allowed in the crib or play yard if the following provisions are in place." Regarding your suggestion to eliminate section 102425(b)(1)(A), this section is in line with Caring for Our Children and the American Academy of Pediatrics guidelines on pacifier use. As such, no further amendments are required.

Additional Comments
Regarding your other comments, the Department is not responding to these comments as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Yuki Zhang, Winnie Ha, Irene Lam, Xiao Li, Chun Qiao Wu, Mei Juan Li, Yan Na Wu, Tammy Ho, Jenny Li, Allislove Childcare, Lan Xing Liu, Wai Hung Tang, Ya Ling Liao, Mabel Quon, Yin Yu Hui, , Jacqueline Wisniewski, Juan Li, Li Chang Liu, Juan Li, June Zhu, Guodong Li, Xiao Ling Huang, Lanlan Lei, Wan Siu Wong, Yue Xiu Wu, Chun Yi Yu, Wai Yan Tang, Lynn, Liu, Suying Liang, Xingchun Ruan, Siu Kam Cheung,

Comment:

"I wish to thank the workgroup that worked so hard to develop regulations that would help to keep infants safe and healthy. While there are many comments and suggestions herein, they are mainly intended to add clarity so that regulations will be readily understood and fairly enforced. I want to support safe sleep regulations that will protect

infants.

Regulations Comments

Please change the word "licensee" to "provider" wherever and whenever the regulation could prevent a licensee from allowing staff to help perform safe sleep practices.

102352 DEFINITIONS (p) (2) "Provider" means anyone providing care to children as authorized by these regulations and includes the licensee, assistant provider or substitute adult.

The center regulations allow center staff to perform safe sleep duties and FCCH's should have this same privilege. Currently, licensing regulations accommodate licensees' needs and allow them to leave children with qualified substitutes for a limited percentage of their hours of operation. Staff in addition to the licensee should also be allowed to perform duties related to safe sleep practices. When qualified staff or volunteers are present, they should be allowed to do the work that needs to be done to facilitate good care.

If regulations refused to allow family child care assistants to assist with safe sleep practices because they might be younger than age 18, please limit only the most difficult safe sleep responsibilities to staff age 18 years and older.

Compliance with these regulations could actually promote the deaths of licensees. Licensees will be tempted to remain on-site instead of obtaining the medical examinations and tests that they need to stay alive, including breast cancer screening.

Licensees would also tempt to violate jury duty laws. A recent summons for Los Angeles County says that failure to comply could result in fines and incarceration. Please change the word "licensee" to "provider" wherever and whenever the regulation could prevent a licensee from allowing staff to help perform safe sleep practices.

102425 (d) The ~~licensee~~ provider shall place infants ~~aged 12 months or younger~~ under 1 year of age on their backs for sleeping.

102425 (h) If an infant falls asleep before being placed in a crib or play yard, the ~~licensee~~ provider shall move the infant to a crib or play yard as soon as possible. Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face.

Comments:

In 2012, the California Health and Safety Regulatory Workgroup submitted a White Paper to the Community Care Licensing Division. The title of the White Paper is Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care. In

this white paper, the recommendation (on page 8, #2, 3rd sentence) says, *"Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face."*

Please add the recommendation from the 2012 white paper that allows providers to nurture and safely hold sleeping infants.

102425 (i) The ~~licensee~~ provider shall supervise infants under 1 year of age while they are sleeping and adhere to the following requirements:

102425 (i) (1) The ~~licensee~~ provider shall physically check on the infant under 1 year of age every 15 minutes.

102425 (i) (2) The ~~licensee~~ provider shall check and document ~~for~~ the following:

102425 (i) (2) (C) 1. If the infant's Individual Infant Sleeping Plan [LIC 9227 (6/18)] does not have Section C completed the ~~licensee~~ provider shall return them to their back for sleeping.

102425 (i) (3) If the ~~licensee~~ provider observes any of the indicators referenced in subsection (2) (A) or (B) above, the ~~licensee~~ provider shall do the following:

102425 (i) (4) The ~~licensee~~ provider shall be near enough to the sleeping infant to be able to hear them wake up

102425 (i) (5) If the infant is sleeping in a separate room from where the ~~licensee~~ provider is stationed, the door to the room the infant/s is sleeping in shall remain open at all times.

102425 (i) (5) (A) The ~~licensee~~ provider shall be able to visually observe the infant without moving the door.

102425 (i) (6) The ~~licensee~~ provider shall be on the same floor as the sleeping infant

Regulations Comments

Please change the wording in these regulations wherever and whenever these regulations say something like "age 12 months or younger." These safe sleep recommendations are for infants under 1 year of age.

The National Sleep Foundation and many other organizations that are experts on SIDS, say that "Sudden Infant Death Syndrome (SIDS) is the unexpected, sudden death of an infant under one year of age..." https://sleepfoundation.org/sleep-disorders-problems/sudden-infant-death-syndrome-and-sleep

"Safe to Sleep" a public education campaign led By Eunice Kennedy Shriver, National Institute of Health and Human Development, states that "SIDS is not a risk for babies 1 year of age or older." https://www1.nichd.nih.gov/sts/Pages/default.aspx

The recommendations in the white paper submitted to D.S.S. *(recommendations list, page 8, #1) begin with the phrase "infants under the age of 12 months"
“Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care" by The Health and Safety Regulatory Workgroup, Military Child Care Initiative, September, 2012.

Please change the word "infant" and “infant age 12 months or younger” to "infant under 1 year of age" wherever and whenever the safe sleep recommendations are for infants under 1 year of age.

102425 INFANT UNDER 1 YEAR OF AGE SAFE SLEEP

102425 (c) An Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be completed for each infant ~~12 months of age and younger~~ under 1 year of age the licensee has in care and maintained at the facility in the infant’s child’s record.

102425 (d) The ~~licensee~~ provider shall place infants ~~aged 12 months or younger~~ under 1 year of age on their backs for sleeping.

102425 (i) The ~~licensee~~ provider shall supervise infants under 1 year of age while they are sleeping and adhere to the following requirements:

102425 (i) (1) The ~~licensee~~ provider shall physically check on the infant under 1 year of age every 15 minutes.

102425 (i) (2) (C) Infants ~~age 12 months or younger~~ under 1 year of age who are sleeping in a position other than on their back.

Regulations Comments

Please add wording “on only (A), (B) and (C)” between “Documentation...” and “…shall be maintained in the infant’s file and be available to the licensing agency of review.” in the regulations.

In section 102416.2, Form LIC 624B has specific reporting requirements. Reference to 102416.2, please allow licensee only maintain documentation on (A), (B), and (C) to report infant under 1 year of age unusual sleep incident and minimize unnecessary paperwork for licensee and the Department.

102425 (i) (2) (D) Documentation on only (A), (B) and (C) shall be maintained in the infant's file and be available to the licensing agency for review. Documentation shall include the following:

a. Date
b. Infant's name
c. Time of each 15-minute check

General Comments

Request for Information Form for Parents
Parents are already getting upset at the possibility that their infants will be disturbed by 15 minute inspections, being placed on their backs when they are put in cribs/play yards and being returned to their backs when they roll over (when required). Please provide parents a form to sign that explains the reasons for the required safe sleep practices.

"Forcing" potential insomnia for infants in quality child care is a nightmare
Sleep is essential for a child's physical and mental development. We fear that these regulations could "force" many infants to stay awake in new ways that we had not imagined. Licensees have tried them out and they find that when infants are returned to their backs, they wake up, cannot go back to sleep. They will cry and wake up all the other infants and children. Many infants will not remain asleep when they are initially placed on their backs to sleep. Sleep is necessary for a child's physical and mental development. Children who are tired are not able to learn and socialize as they should.

The California Department of Social Services and Community Care Licensing should be in compliance with the pediatric guidelines to follow safe sleep practices only until the child's first birthday. Please ensure all safe sleep practices in compliance with the pediatric guidelines.

Response:

The Department acknowledges the comments and suggested amendments.

Licensees vs. Providers
Regarding the suggestion to change the word "Licensee" to "Provider" in the proposed regulations, while one may use an Assistant Provider to uphold the regulations to care for the children, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations. Therefore, the Department will not be modifying the proposed regulations.

Forms
Regarding your suggestion to provide parents with a form to sign that explains the reasons for safe sleep, the Department is not prohibiting facilities from drafting their own safe sleep policies to give to parents.

15-Minute Checks
Regarding Section 102425(i)(1-7), specifically in reference to conducting and documenting the 15-minute checks, the intent of these regulations is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment.

Additional Comments
As for the additional comments and suggestions, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Maria Miramontes:

Comment:

"My name is Maria Miramontes. I have a family home daycare in Santa Ana, California. My job is very important to me and I deeply care about child safety however I don't completely agree with the new regulations of safe sleep. It will not function because it can't be possible while taking care of other children as well. With the new regulation that you are placing we would have to put the child to sleep when we are available to supervise it sleeping the whole time and that would be impossible. The regulation could only be possible if we eliminate or suspend the childcare of under 1 year olds. This would seriously affect the child and their family. Families will have to find others to take care of their children and they will not be as well supervised as in a daycare. What might happen if a childcare provider has to go to the doctor or has to take their children to a doctor's appointment? One suggestion would be that not only child care providers supervise the child sleeping but have assistance as well be able to supervise children like we are doing right now. I would like for this regulation to be analyzed taking in consideration of our opinions because us child care providers are the ones out there keeping children safe. My first priority is to serve the families, helping with the care of their children in a safe and secure place. Thank you for listening to my opinions and I hope you consider my suggestions."

Response:

The Department appreciates your comments regarding the proposed regulations.

Licensees vs. Providers

Regarding your suggestion to allow licensees and assistants to supervise sleeping infants, while one may use an assistant provider to uphold the regulations to care for the children, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations. There is nothing in the regulations precluding an

assistant from supervising a sleeping infant. Therefore, the Department will not be modifying the proposed regulations.

15-Minute Checks
The intent of regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Nancy Wyatt of the California Family Child Care Network, Sandra's Family Childcare, Oralia Gonzalez Saldana, Angela's Family Day Care, Sandra Sengdara Siharath, Maria Garcia & Sonia Ramirez

Comment:

Comments for 102425 (i)(2):
The proposed re-notice regulation as written by licensing:
(i) The licensee shall supervise infants while they are sleeping and adhere to the following requirements:
(1) The licensee shall physically check on the infant every 15 minutes.

(2) The licensee shall check and document ~~for~~ the following:

Your modified version has added a new requirement for documentation by the licensee. The licensee would be required to document 15 minute sleep checks for "infants" and document each 15 minute sleep check until the child is two years old. Please change the word "licensee" to "provider." Please limit this documentation requirement to infants under one year old because safe sleep recommendations are for infants under one year of age. Recommendations do not include infants up to 13 months. We do not know why you refused our request made during the 45 day comment period to allow FCC staff to assist with other safe sleep activities. We have serious concerns (explained below).
Please draft a new version that would allow our qualified subs to assist with safe sleep requirements. Fully qualified FCC subs are age 18 or older, criminal record cleared, CPR and First Aid certified, TB tested, immunized and Mandated Reporter trained. State laws allow licensees to leave their facilities. If you believe that the FCC staff needs safe sleep training before being allowed to assist, please allow licensees to document such training and then allow trained staff to assist. Licensees might sign something that attests to the fact that they have trained their staff in safe sleep practices.

If you refused to allow FCC assistants to assist with safe sleep practices because they might be younger than age 18, please draft a version that would still allow adult staff to

perform safe sleep responsibilities and, if you feel you must, limit only the most difficult safe sleep responsibilities to staff age 18 years and older.

Surely, ALL staff/assistants should be allowed to put the infants in their cribs/play yard for sleep. This is not a difficult activity. Staff should not need to transfer a sleeping infant to the licensee for the licensee to place the infant in the crib/play yard.
We fear that compliance with the current version of the safe sleep regulations could actually promote the deaths of licensees. Licensees will be tempted to remain on-site instead of obtaining the medical examinations and tests that they need to stay alive, including breast cancer screenings.

Licensees would also be tempted to violate jury duty laws. A recent summons for Los Angeles County says that failure to comply could result in fines and incarceration. At times, licensees need to be able to use qualified subs and leave their homes.
It is absolutely <u>essential</u> that, in addition to the licensee, these regulations allow a provider, assistant provider, and adult substitutes to perform safe sleep duties.
The center regulations allow center staff to perform safe sleep duties and FCCH's should have this same privilege.

Comments for 102425 (i) (2) (D)

<u>The proposed re-notice regulation as written by licensing:</u>
<u>D. Documentation shall be maintained in the infant's file and be available to the licensing agency for review. Documentation shall include the following:</u>
<u>a. Date</u>
<u>b. Infant's name</u>
<u>c. Time of each 15-minute check</u>

In order to best facilitate compliance, please allow FCC to keep documentation of safe sleep handy (in pockets, on clipboards, etc.). The "active" log pages could be made available to licensing staff upon request and maintained in the infant's file when documentation spaces are filled or when the log page is no longer being used. It would be difficult to keep safe sleep logs pages handy if they always needed to be maintained in the infant's file. We do not want to go get infant files out of our facility files for each 15 minute check and we do not want to carry infant files around while we work. We might find a way to store the files near cribs and play yards, but pulling out the files for each check to find log pages inside the files will be a nuisance. For disaster preparedness and possible evacuation, we want to keep our infant files together with our other files.

Comments for 102425 (c)

<u>The proposed re-notice regulation as written by licensing:</u>
(c) An Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be completed for each infant 12 months of age and younger the licensee has in care and maintained at the facility in the <u>infant's</u> ~~child's~~ record.

(2) This plan shall be signed and dated by the <u>infant's</u> ~~child's~~ authorized representative.

(3) The Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be maintained in the infant's ~~child's~~ file and shall be available to the licensing agency for review.

Please define infant as "infant under one year of age" instead of "infant 12 months and younger" and instead of "infant's" (three places).
The numbers under (c) should begin with (1)

Request for Information Form for Parents:

Parents are already getting upset at the possibility that their infants will be disturbed by 15 minute inspections, being placed on their backs when they are put in cribs/play yards and being returned to their backs when they roll over (when required). We are suggesting that parents be given an opportunity to sign a form that explains the reasons for the required safe sleep practices.

General Comment:

We fear that these regulations could "force" many infants to stay awake in new ways that we had not imagined. Licensees have tried them out and they find that when infants are returned to their backs, they wake up, cannot go back to sleep and wake up all the other infants and children. Many infants will not remain asleep when they are initially placed on their backs to sleep. Sleep is necessary for a child's physical and mental development. Children who are tired are not able to learn and socialize as they should.

The California Department of Social Services and Community Care Licensing should be in compliance with the pediatric guidelines and follow safe sleep practices only until the child's first birthday.

Thanks You for Two Modifications That We Requested:

Thank you for modifying the pacifier lines so that it is clear that pacifiers are allowed.

Thank you for adding "at least" to the weekly requirement for cleaning bedding. This will allow us to clean bedding more often if needed/desired.

Additional Modifications and an Additional 15-day Re-notice Are in Order

Let's get this right. The impact will be so significant. A few more weeks is a small price to pay for good regulations.

Note: These regulations invite misinterpretations because they intermix requirements for infants up to age two years and requirements for infants age 12 months and younger and requirements for all children.

Response:

The Department appreciates your comments.

Licensee Vs. Provider
Regarding the suggestion to change the word "Licensee" to "Provider" in the proposed regulations, while one may use an Assistant Provider to uphold the regulations to care for the children, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations. Therefore, the Department will not be modifying the proposed regulations.

Sleep Log
Regarding keeping current safe sleep log documentation near the sleeping areas, regulations require documentation of the 15-minute checks be maintained in the infant's file and be available to the licensing agency for review. It is up to each provider to determine the best method for documenting the 15-minute checks of sleeping infants to meet the regulatory requirements. Please note that nothing can be attached to or kept inside the infant's crib or play yard. If you have any questions, your local Regional Office can provide guidance and help determine if your method of capturing this information is appropriate.

Infant Ages
The Department has changed Section 102352(i) to read, "'Infant' means a child under two years of age". The intent of this regulation package is to protect all infants in safe sleep environments by removing the risks that could attribute to SIDS or sleep related deaths.

Parental Notification
Regarding the request for parental notification, the regulations do not prohibit facilities from drafting their own safe sleep forms or internal policies to give to parents.

Additional Comments
Regarding the other comments and suggestions, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Teri Davies of Learning Care Group

Comment:

"Learning Care Group (LCG) is writing in response to the California Department of Social Services' (CDSS) modified proposed regulations as relates to safe sleep, ORD No. 0318-03. Learning Care Group provides high-quality education and care to over 100,000 children across the United States, including ~10,000 here in California under the brands Tutor Time, Childtime, La Petite Academy and The Children's Courtyard. Our children range in age from six weeks to 12 years of age. We serve children of all socioeconomic backgrounds and are proud to meet the needs of the families in our

care, regardless of financial or personal circumstance. Learning Care Group appreciates many of the modifications CDSS has made to the proposed safe sleep regulations but believe that some modifications will meet best practices as recommended by AAP and others. Following are Learning Care Group's recommendations for improving upon the Department's modified proposed changes to Title 22, California Code Regulations (CCR) as relates to safe sleep practices in licensed child care settings.

Supervision of Sleeping Infants

1. Learning Care Group supports the revision to section 101229 that would require staff to physically check on sleeping infants every 15 minutes and to document those checks. However, request the state eliminate its regulation in section 101438.3(c) that requires centers to physically separate the infant sleeping and activity areas. Physically separating the infant sleep area from the indoor activity area is not linked to any health & safety rationale. To the contrary, physical barriers such as those required by current regulation diminish health and safety and run counter to recommended best practice. Only one other state requires this physical separation as all other states abandoned such separation years ago to best align their state regulations with current best safe sleep practices. Caring for Our Children (3.1.4) recommends against separate sleep areas for infants and we recommend California strike the current 101438.3(c) requiring the physical separation of the infant sleep and indoor activity areas. Centers that currently have transparent or half walls separating the infant sleeping area and activity area should be allowed to remove those walls, thereby allowing staff optimal sight and sound of sleeping infants.

2. If the state continues to require the physical separation of the infant sleep and activity areas, LCG believes the state should clarify in regulation the difference between a separate sleeping area and "room," which must meet the requirements in the newly proposed 101429(a)(2)(D). We would argue that an infant sleeping area separated from the infant activity area with a transparent half wall should not be considered a "separate room from where the staff are located." Those centers with transparent half walls, while subject to the newly proposed 101429(a)(2)(B) requiring staff checks every 15 minutes, should not be subject to the newly proposed 101429(a)(2)(D).

Failing to provide clarity on this point can lead to confusing messages from the state and contradictory interpretations among licensors across the state. Again, we would argue that the preferred regulation for ensuring an infant's wellbeing would be to eliminate current regulation 101438.3(c) requiring the physical separation of the infant sleep and indoor activity areas.

Staff Training in Safe Sleep
Learning Care Group concurs with AAP that all staff working with infants in a child care setting should receive training on safe sleep practices and implement safe sleep practices. While adding requirements to implement safe sleep practices, we recommend

the addition training on AAP Safe Sleep requirements within 30 days of employment and every 3 years thereafter for the following positions:

- Center director qualifications and duties (101415)
- Assistant center director qualifications and duties (101415.1),
- Teacher qualifications and duties (101416.2)
- Aide qualifications and duties (101416.3)

Infant Care Activities
We agree with Caring for Our Children's definition of a safe sleep environment – "a safety- approved crib, firm mattress, firmly fitted sheet, and the infant placed on their back at all times, in comfortable, safe garments, but nothing else." Too often infants are left to sleep in car seats and other furniture or equipment that is not a safety-approved crib. As many of our colleagues in child care do, we recommend strengthening the proposed 101430(a)(3)(E) as follows:

(E) Infants shall only sleep in approved sleeping equipment as defined in section 101439.1. If an infant falls asleep before being placed in a crib the licensee shall move the infant to a crib as soon as possible to ensure the health and safety of all infants in the classroom.

Infant Care Center Sleeping Equipment
We offer one recommendation and seek one clarification to the proposed sleeping equipment regulations in section 101439.1.

1. To ensure optimal health conditions for young children, we recommend adding back to the proposed regulations in section 101439.1(e)(1) that infant sleep equipment be both "changed and sanitize d daily.

2. Learning Care Group agrees that nothing should be hung on the sides or ends of cribs at any time as proposed in section 101439.1(f)(3). We do, however, seek clarification regarding the meaning of "attached" in that same section. As a best safe sleep practice in our centers and many others in the State, we use name tags on individual cribs that have the child's name and indicate the infant's ability to roll over. These name tags are updated as soon as the child can roll back to stomach and stomach to back with ease. The crib name tags we use are attached to the ends of the cribs and do not obstruct the caregiver's ability to view the sleeping infant. We ask that the final regulations clarify that the use of such crib name tags are allowable. The name tags are an important part of maintaining infant safety. Learning Care Group cares deeply for the safety and wellbeing of our children and commends California for the focus on Safe Sleep. Should you have any questions regarding our recommendations for strengthening these modified proposed safe sleep regulations, please do not hesitate to contact us.

Response:

The Department acknowledges these comments.

Half walls and Transparent Walls
To clarify, the use of half or transparent walls will be allowed in child care centers, as long as staff can observe the infants by sight and sound at all times. Regarding a separate room, the Department is allowing the use of transparent and half walls to aid in the supervision of infants. The presence of half or transparent walls does not constitute a separate room and licensees will not be held to the staffing requirement as outlined in Section 101429(a)(2)(d).

15-Minute Checks
The Department amended Sections 101429(a)(B) and 102425(i)(2)(D) by adding the requirement that staff of both centers and homes physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s). Providers will be observing the infants for sleep position and signs of distress which include labored breathing, flushed skin color, increase in body temperature, and restlessness. If any of the concerning signs are observed, the licensee shall immediately seek medical attention if necessary and notify the infant's representative. The intent of proposed regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary.

Sanitized
Regarding the removal of the word "sanitized" from Section 101439.1(e)(1), we will be adding this consideration to a future regulatory proposal.

Items Attached to Cribs
Regarding labeling the cribs with infant names, nothing may be attached to or kept inside the infant's crib or play yard. Licensees may decide how to label the cribs and remain in compliance. If you have any questions, your local Regional Office can provide guidance and help determine if your method of capturing this information is appropriate.

Additional Comments
Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required.

Comment from Miren Algorri

Comment:

Comments for 102425(i)(2):
The proposed re-notice regulation as written by licensing:

(i) The licensee shall supervise infants while they are sleeping and adhere to the following requirements:
(1) The licensee shall physically check on the infant every 15 minutes.
(2) The licensee shall check and document for the following:

Your modified version has added a new requirement for documentation by the licensee. The licensee would be required to document 15 minute sleep checks for "infants" and document each 15 minute sleep check until the child is two years old. Please change the word "licensee" to "provider." Please limit this documentation requirement to infants under one year old because safe sleep recommendations are for infants under one year of age. Recommendations do not include infants up to 13 months.

We do not know why you refused our request made during the 45 day comment period to allow FCC staff to assist with other safe sleep activities. We have serious concerns (explained below).

Please draft a new version that would allow our qualified subs to assist with safe sleep requirements. Fully qualified FCC subs are age 18 or older, criminal record cleared, CPR and First Aid certified, TB tested, immunized and Mandated Reporter trained. State laws allow licensees to leave their facilities.

If you believe that the FCC staff needs safe sleep training before being allowed to assist, please allow licensees to document such training and then allow trained staff to assist. Licensees might sign something that attests to the fact that they have trained their staff in safe sleep practices.

If you refused to allow FCC assistants to assist with safe sleep practices because they might be younger than age 18, please draft a version that would still allow adult staff to perform safe sleep responsibilities and, if you feel you must, limit only the most difficult safe sleep responsibilities to staff age 18 years and older.
Surely, ALL staff/assistants should be allowed to put the infants in their cribs/play yard for sleep. This is not a difficult activity. Staff should not need to transfer a sleeping infant to the licensee for the licensee to place the infant in the crib/play yard. We fear that compliance with the current version of the safe sleep regulations could actually promote the deaths of licensees. Licensees will be tempted to remain on-site instead of obtaining the medical examinations and tests that they need to stay alive, including breast cancer screenings. Licensees would also be tempted to violate jury duty laws. A recent summons for Los Angeles County says that failure to comply could result in fines and incarceration. At times, licensees need to be able to use qualified subs and leave

their homes. It is absolutely essential that, in addition to the licensee, these regulations allow a provider, assistant provider, and adult substitutes to perform safe sleep duties. The center regulations allow center staff to perform safe sleep duties and FCCH's should have this same privilege.

Comments for 102425 (i) (2) (D)
The proposed re-notice regulation as written by licensing:
D. Documentation shall be maintained in the infant's file and be available to the licensing agency for review. Documentation shall include the following:
a. Date
b. Infant's name
c. Time of each 15-minute check

In order to best facilitate compliance, please allow FCC to keep documentation of safe sleep handy (in pockets, on clipboards, etc.). The "active" log pages could be made available to licensing staff upon request and maintained in the infant's file when documentation spaces are filled or when the log page is no longer being used. It would be difficult to keep safe sleep logs pages handy if they always needed to be maintained in the infant's file. We do not want to go get infant files out of our facility files for each 15 minute check and we do not want to carry infant files around while we work. We might find a way to store the files near cribs and play yards but pulling out the files for each check to find log pages inside the files will be a nuisance. For disaster preparedness and possible evacuation, we want to keep our infant files together with our other files.

Comments for 102425 (c)
The proposed re-notice regulation as written by licensing:
(c) An Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be completed for each infant 12 months of age and younger the licensee has in care and maintained at the facility in the infant's ~~child's~~ record.

(2) This plan shall be signed and dated by the infant's ~~child's~~ authorized representative.

(3) The Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be maintained in the infant's ~~child's~~ file and shall be available to the licensing agency for review.

Please define infant as "infant under one year of age" instead of "infant 12 months and younger" and instead of "infant's" (three places).

The numbers under (c) should begin with (1)

Request for Information Form for Parents:

Parents are already getting upset at the possibility that their infants will be disturbed by 15-minute inspections, being placed on their backs when they are put in cribs/play yards and being returned to their backs when they roll over (when required). We are suggesting that parents be given an opportunity to sign a form that explains the reasons for the required safe sleep practices.

General Comment:
We fear that these regulations could "force" many infants to stay awake in new ways that we had not imagined. Licensees have tried them out and they find that when infants are returned to their backs, they wake up, cannot go back to sleep and wake up all the other infants and children. Many infants will not remain asleep when they are initially placed on their backs to sleep. Sleep is necessary for a child's physical and mental development. Children who are tired are not able to learn and socialize as they should.

The California Department of Social Services and Community Care Licensing should be in compliance with the pediatric guidelines and follow safe sleep practices only until the child's first birthday.

Thanks You for Two Modifications That We Requested:

Thank you for modifying the pacifier lines so that it is clear that pacifiers are allowed.

Thank you for adding "at least" to the weekly requirement for cleaning bedding. This will allow us to clean bedding more often if needed/desired.

Additional Modifications and an Additional 15-day Re-notice Are in Order

Let's get this right. The impact will be so significant. A few more weeks is a small price to pay for good regulations.

Note: These regulations invite misinterpretations because they intermix requirements for infants up to age two years and requirements for infants age 12 months and younger and requirements for all children.

Response:

The Department appreciates your comments.

Documentation
Regarding your request to keep the sleep documentation on hand, documentation of the 15-minute checks shall be maintained in the infant's file and be available to the licensing agency for review. It is up to each provider to determine the best method for documenting this information to meet the regulatory requirements.

15-Minute Checks and Documentation
Regarding your request to eliminate the requirement to document the 15-minute checks on infants under 12-months of age, Section 102425(i)(1) and (2) apply to all infants, any child under two years of age. The intent of these proposed regulations is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure safer sleep.

Items on the crib
Please note that nothing can be attached to or kept inside the infant's crib or play yard. If you have any questions, your local Regional Office can provide guidance and help determine if your method of capturing this information is appropriate.

Parent Notification
Regarding the request for parent notification, the regulations do not prohibit facilities from drafting their own safe sleep policies to give to parents.

Licensee vs. Provider
Regarding your request to change "licensee" to "provider," a licensee can use an Assistant Provider to uphold the regulations to care for the children, though, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations.

Regulation Numbers
Regarding the numbering of the regulations, that has been corrected.

Additional Comments
Regarding the other comments and suggestions, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Stacia Watson

Comment:

"I am a home daycare provider in El Dorado County. I want to express my concerns regarding the new sleep regulations proposed. I care for children from 4 months old through school age. I find the proposed requirement to physically check a sleeping infant every 15 minutes to be excessive as well as an interruption to the care I am providing to other children. To read a book often takes longer than 15 minutes. Same is true for doing a craft, or changing several diapers, or helping 5 or 6 children get their jacket and shoes on. Therefore this requirement would impede my ability to tend to the needs of other children in my care. Another concern I have is regarding an open door policy. I have a standard ranch style home with bedrooms and bathroom down the hall. When a child young child is potty training we use the bathroom every 30 minutes. 2 and

3 year olds are not the quietest. It would be such a disturbance to an infants nap to have an open door which all that noise is entering. It can be a problem with a closed door presently, an open door would be unmanageable! Not to mention those hollering my name to wipe them. The last thing I would like to address is a no swaddle policy. Parents bring their child into my care around 3 months old. If they have swaddled their child for 3 months since bringing them home from the hospital mandating that I do not swaddle is sabotage. The baby should have every comfort of home as they transition into this new environment with a new caregiver. I feel if it is the wish of the parent, it should be able to be in the infants sleep plan. Other parts of the proposed sleep regulations I feel are sensible. Such as laundering bedding and separate beds/cribs. I hope my opinion as well as other providers will be taken into consideration before a final decision is made on this matter."

Response:

The Department appreciates your comments regarding the proposed regulations.

15-Minute Checks
The intent of regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment.

Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed these comments and determined that no further amendments are required.

Comment from Lucy Chaidez

Comment:

I reviewed the latest iteration of the safe sleep regulations, and found this section troubling:

Staff shall physically check on sleeping infant(s) every 15 minutes and document for the following:

1. Labored breathing.
2. Signs of overheating: flushed skin color, increase in body temperature and restlessness.
3. Infants age 12 months or younger who are sleeping in a position other than on their back.

My concern for the yellow highlighted section is from a first aid standpoint. If I see a baby with labored breathing, I am going to provide first aid for a breathing emergency

and call 9-1-1, and not just "document" my finding. I can document the issue and contact parents or guardians *after* I have tended to a breathing emergency and made sure that the paramedics are on scene to provide a baby with professional prehospital care.

While I realize that CCLD has language in place to address this concern, (see the *** paragraph below), I am still concerned that the earlier wording does not emphasize acting immediately on a breathing emergency. And, I think the following language also does not emphasize that for a labored breathing emergency with an infant, immediate first aid and calling of 9-1-1 is the best practice.

CCLD can fix this by beginning this section (more logically) with the sentence "Provide first aid as appropriate for a breathing emergency and call 9-1-1 immediately."

It is important to have this information listed first because when you read this section and the other section, getting help for the child is not the first thing mentioned. That is not logical. And delaying first aid and delaying calling 9-1-1 could lead to disastrous outcomes for a baby in breathing distress. The section below emphasizes calling the child's parent or guardian immediately after finding a baby in breathing distress (labored breathing), and asking the parent for what course of action should be taken. But, doing so in this order could dangerously delay emergency medical care that can save a baby's life.

And including at the end of the below regulation that no delay should occur in the event of an emergency is misplacing the most important message for this kind of a scenario. Write it logically, making sure the sentence is at the ***beginning*** of the section, and you will have more success at conveying the message that a breathing emergency requires immediate first aid and calling of the professional emergency first responders. Also, just saying "obtain medical treatment" is not as impactful, nor as correct as "Provide first aid for a breathing emergency and call 9-1-1." By California law, we teach child care providers to provide first aid and "call 9-1-1" for breathing emergencies, and this is the best practice emergency protocol for labored breathing.

***For centers: 101429(a)(2)(C)
(C) If the staff person observes any of the indicators in subsections (B) 1. or 2. the procedures outlined in Section 101226 shall be followed.

For homes: 102425(i)(3)

(3) If the licensee observes any of the indicators referenced in subsection (2) (A) or (B) above, the licensee shall do the following:
(A) Immediately notify the infant's authorized representative.
(B) Obtain specific instruction from the infant's authorized representative regarding action to be taken and make prompt arrangements to obtain medical treatment if necessary.

(C) There shall be no delay in obtaining medical treatment for the infant if the infant's condition requires immediate attention.

Response:

The Department appreciates your comments regarding the proposed regulations.

Emergency Response
The intent of proposed regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that caregivers can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure safer sleep. As you note, 101429(a)(2)(C) and 102425(i)(3)(C) advise the licensee to seek medication attention without any delay if necessary.

The Department has reviewed the comments and determined that no further amendments are required. However, your recommendations will be considered in future regulatory proposals.

Comment from Robert Viramontes of the Los Angeles Area Chamber of Commerce

Comment:

"On behalf of the Educare Los Angeles at Long Beach, we would like to submit the following public comments on the revisions to the proposed Safe Sleep Regulations, Section 101229.

We are concerned with the change in safe sleep regulations becoming so restrictive that early care providers will not have the staff and capacity necessary to perform physical sleeping checks. These new regulations come at a time where in California we continue to face a shortage and high turnover of early care providers, particularly infant and toddler providers, so we ask the state of California to strongly consider relaxed performance with such sleeping checks. The number and frequency of checks will require additional staffing. That need for staffing will result in higher costs of infant and toddler care, which is already more than many low-income families can afford. Reimbursement rates are already low and if these regulations pass, it will drive many more providers to stop providing care for infants. Again, the most affected by this will be low-income families and children.

If these new regulations must be implemented, early care providers would highly benefit from an assurance that licensing analysts will be trained to fully understand the complexity with new regulations. Otherwise, we run the risk of merely checking off of boxes for compliance without providing any guidance to providers about difficulties with performing the sleeping checks (for example, the regulations do not give any guidance as to what the skin tone, temperature and restlessness levels should be). Therefore,

simply checking boxes for compliance will not necessarily make sleeping situations for infants any safer.

We thank you for the opportunity to allow for public comment for safe sleep guidelines and offer our continued input moving forward."

Response:

The Department acknowledges these comments.

Infant Supervision
The Department amended the proposed regulation language by removing the requirements for a staff person to be in the designated sleeping area and will not prohibit the use of transparent walls and half walls allowing for constant visual and auditory supervision. The Department will continue to require a staff person to supervise by sight and sound through all phases of sleep at all times. The Department has also amended the regulation by adding the requirement that staff physically check on the sleeping infant(s) every 15 minutes and document the condition of the infant(s).

15-Minute Checks
Regarding the 15-minute checks and documenting the infant's sleeping patterns, the intent of this regulation is to ensure that licensees can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment.

The Department has reviewed these comments and determined that no further amendments are required.

Comment from Morgan Kelley of Little Willow Preschool

Comment:

"I am very concerned with a specific aspect of the new Safe Sleep Regulations. I am a mother, child care provider, Humboldt State University graduate and advocate for children and native communities in Northern California.

Within the new regulations it states that babies under one year old are not to be swaddled while in child care nor sleep anywhere other than their cribs. Many of the children I care for, sleep at home and at child care in their traditional Native American baby baskets. In order to be strapped into these baskets, a child is first swaddled then placed in the basket. This is a tradition that has been a part of our people's culture from the beginning of time. The children I care for have a deep connection and comfort in the consistency of sleeping in their baby baskets. Many of their mothers and grandmothers hand weave and bead these baskets specifically for the specific child it holds. Many say that native communities were the original people to practice the 'back to sleep' method.

I have spoken with many community members about the details this new regulation includes and what this will mean for our children. We are all very concerned and expect that our concerns will be taken very seriously when the public comments are viewed and discussed.

This regulation should include an exemption for child care providers that are caring for children that sleep in baby baskets/ cradle boards.

By putting this regulation into action without including such exemption is a huge disrespect for native people and our culture. A culture that has continuously been intentionally and unintentionally suppressed since first contact several hundred years ago."

Response:

The Department acknowledges and has reviewed the comments. The Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required.

Comment from Doug Moore of UDW

Comment:

UDW/CCPU, on behalf of family child care providers in 39 counties throughout California, resubmits the following comments to the California Department of Social Services (DEPARTMENT) on the proposed amendments and adoptions to the California Code of Regulations (CCR), Title 22, Division 12 for Child Care Centers (CCC) and Family Child Care Homes (FCCH) to support safe sleep for infants in child care facilities.

"Amend Section 101239 to read:
(a) through (q) (Continued)
(r) *Fixtures, furniture, and equipment that have been banned or recalled by the United States Consumer Product Safety Commission shall not be used or on the facility's premises.*
(1) *If the United States Consumer Product Safety Commission authorizes a correction to a banned or recalled item, proof of the correction showing it meets the new United States Consumer Product Safety Commission standards shall be maintained at the child care center and shall be available to the licensing agency for review."*

"Amend Section 102417 to read:
(a) through (c) (Continued)
(d) The home shall provide safe toys, play equipment, and materials.
(1) Fixtures, furniture, and equipment that have been banned or recalled by the United States Consumer Product Safety Commission shall not be used for children in care or accessible.
(A) If the United States Consumer Product Safety Commission authorizes a correction to a banned or recalled item, proof of the correction showing it meets the new United States Consumer Product Safety Commission standards shall be maintained at the facility and shall be available to the licensing agency for review."

We support prohibiting facilities from using banned or recalled fixtures. However, we request the department provide CCC and FCCH with an updated list of fixtures, furniture, and equipment that have been banned or recalled by the United States Consumer Product Safety Commission and provide notice of any changes. Many child care providers may not have access to the latest information regarding banned or recalled items and would be at risk of a licensing deficiency. Providing a list of banned or recalled products not only ensures that providers can stay in compliance but allows them to protect the health and safety of the children in their care from potential safe sleep hazards.

Both Section 102425 and Section 102426 requires "licensees" in meeting these requirements. We believe the term "licensees"

should be changed to the term "provider" as defined in Section 102352 which states that *"provider" means anyone providing care to children as authorized by these regulations and includes the licensee, assistant provider, or substitute adult*. However, the term "licensee" should be kept for the completion and maintenance of the Individual Infant Sleeping Plan [LIC 9227 (6/18)].

"*Amend Section 102352 to read:*
(i) ~~(1)~~ "Infant" means a child ~~who has not yet reached his or her second birthday~~under two years of age."

Currently, there is a discrepancy regarding the definition of "infant". In the new sleep regulations, “infant” is defined as “*a child under two years of age*”. However, the individual Infant Sleeping Plan [LIC 9227 (6/18)] is required to be completed for each infant 12 months of age and younger. We need clarification and believe the best way to address this discrepancy is to allow for two separate age group definitions for children under two years of age. We request that in Section 102352 the term “infant” be defined as a child under 12 months of age and the term “toddler” to be added to define a child under two years of age but over 12 months of age.

(D) Documentation shall be maintained in the infant's file and be available to the licensing agency for review. Documentation shall include the following:
a. Date
b. Infant's name
c. Time of each 15-minute check

This reporting requirement poses an onerous burden on providers. In order for providers to comply, providers will have to take time away from caring for children to provide for this information. We strongly urge the department to either eliminate this documentation requirement completely or require providers to provide documentation – including the date, infant name, and time – only when any issues arise.

Response:

The Department acknowledges these comments.

Licensee Vs. Provider
Regarding the suggestion to change the word "Licensee" to "Provider" in the proposed regulations, while one may use an Assistant Provider to uphold the regulations to care for the children, ultimately, it is the licensee's responsibility to ensure compliance with all applicable laws and regulations. Therefore, the Department will not be modifying the proposed regulations.

15-Minute Checks
The intent of regulation Sections 101429(a)(B) and 102425(i)(2)(D) is to ensure that licensees can identify signs of distress in an infant and seek medical attention when necessary. By conducting and documenting the 15-minute checks, providers can increase their awareness of any changes in the infant and ensure a safer sleep environment.

Regarding the additional comments, the Department is not responding to them as they do not address the regulatory changes set forth in the 15-day notice. Public comment is limited to the changes set forth in the notice. The Department has reviewed the comments and determined that no further amendments are required.